

***United States Court of Appeals  
for the  
District of Columbia Circuit***



**TRANSCRIPT OF  
RECORD**





# TRANSCRIPT OF RECORD.

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## Court of Appeals, District of Columbia

**APRIL TERM, 1910.**

**No. 2115.**

**704**

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**No. 3, SPECIAL CALENDAR.**

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W. W. DEGGE, THE WELLINGTON ASSOCIATION, A CORPORATION; THE WELLINGTON DEVELOPMENT COMPANY, A CORPORATION, AND THE WELLINGTON INVESTMENT COMPANY, A CORPORATION, APPELLANTS,

*vs.*

FRANK H. HITCHCOCK, AS POSTMASTER GENERAL OF THE UNITED STATES.

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APPEAL FROM THE SUPREME COURT OF THE DISTRICT OF COLUMBIA

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**FILED FEBRUARY 7, 1910.**

*April 6. 1910*

*Shepard*

# COURT OF APPEALS OF THE DISTRICT OF COLUMBIA

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vs.

FRANK H. HITCHCOCK, AS POSTMASTER GENERAL OF THE UNITED STATES, APPELLEE.

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# In the Court of Appeals of the District of Columbia.

No. 2115.

W. W. DEGGE et al., Appellants,  
vs.  
FRANK H. HITCHCOCK, as Postmaster General of the United States.

*a* Supreme Court of the District of Columbia.

At Law. No. 52209.

W. W. DEGGE, THE WELLINGTON ASSOCIATION, a Corporation; THE Wellington Development Company, a Corporation, and The Wellington Investment Company, a Corporation, Petitioners,  
vs.  
FRANK H. HITCHCOCK, as Postmaster General of the United States, Respondent.

UNITED STATES OF AMERICA,  
*District of Columbia, ss:*

Be it remembered, that in the Supreme Court of the District of Columbia, at the City of Washington, in said District, at the times hereinafter mentioned, the following papers were filed and proceedings had in the above-entitled cause, to wit:

1 *Petition.*

Filed Dec. 10, 1909.

In the Supreme Court of the District of Columbia.

At Law. No. 52209.

W. W. DEGGE, THE WELLINGTON ASSOCIATION, a Corporation; THE Wellington Development Company, a Corporation, and The Wellington Investment Company, a Corporation, Petitioners,  
vs.  
FRANK H. HITCHCOCK, as Postmaster General of the United States, Respondent.

Your Petitioners, appearing by O. A. Erdman, their Attorney, respectfully represent and show to the Court:

1. That the Wellington Association, The Wellington Development Company and The Wellington Investment Company are cor-



porations respectively organized under the laws of the Territory of Arizona, and the said corporations constitute what is commonly known and designated as The Wellington System.

2. That The Wellington Association aforesaid maintains a business office in the City of Boulder and State of Colorado, and acts as the fiscal agent of The Wellington Development Company and The Wellington Investment Company aforesaid.

3. That W. W. Degge is a citizen of the United States and is the President and Business Manager of each of the said Corporations and resides in the City of Boulder in the State of Colorado, aforesaid.

2 4. That the respondent, Frank H. Hitchcock is and was at the time of the acts herein complained of, the duly appointed, qualified and acting Postmaster General of the United States.

5. That some time in the year A. D. 1905 complaint was lodged by some person to the said petitioners unknown, in the Post Office Department of The United States, containing charges against the aforesaid W. W. Degge, the nature of which is to the aforesaid petitioners unknown, and the said charges were filed numbered and designated as case Number 61,995-C, and were on the thirty-first day of July, A. D. 1905, referred to the then Chief Inspector of the Post Office Department, residing at the City of Denver in the said State of Colorado, for investigation.

6. That from time to time thereafter various items of information in relation to the aforesaid Wellington Association and other corporations managed by the said W. W. Degge, and their business, were requested of the aforesaid W. W. Degge by the aforesaid Chief Inspector at Denver, Colorado, and were furnished by the said W. W. Degge as requested.

7. That on, to-wit, the twenty-first day of January, A. D. 1909, by the direction of George Von L. Meyer, then the duly appointed, qualified and acting Postmaster General of the United States, the aforesaid W. W. Degge was cited to answer a charge of using the United States mails in a scheme to defraud, and to show cause why a fraud order should not be issued, which said citation was served on the said W. W. Degge by the Postmaster in the City of Boulder, in the State of Colorado, on the twenty-fifth day of January, A. D. 1909, and the fifteenth day of February A. D. 1909 was then  
3 fixed for the hearing thereof, and said citation being in the following form, to wit:

POST OFFICE DEPARTMENT,  
OFFICE OF THE ASSISTANT ATTORNEY GENERAL,  
WASHINGTON, *January 21, 1909.*

W. W. Degge, Boulder, Colorado.

SIR: Enclosed herewith is a memorandum outlining certain charges which, by direction of the Postmaster General, are under examination in this office, to the effect that you are engaged in conducting a scheme or device for obtaining money or property through the mails by means of false or fraudulent pretenses, representa-



tions, or promises, in violation of Secs. 3929 and 4041 of the Revised Statutes as amended, a copy of which is also sent herein. It will be observed that these statutes authorize the Postmaster General to prohibit the delivery of mail and the payment of money orders addressed to, or drawn to the order of, any person or company found to be using the mails in the operation of a scheme or device of this character.

It is desired that you make reply to the charges set forth in this memorandum, and February 15, 1909, at 10:30 o'clock a. m. is designated as the time when the case will be considered. Your reply must be in writing. It may be forwarded by mail, or you may present it in person or by attorney at that time and supplement the same by oral argument. Should you fail to make answer by the time named, the case will be considered and disposed of in your absence.

Respectfully, (Signed)

R. P. GOODWIN,  
*Assistant Attorney General.*

8. That accompanying the said citation was a written memorandum of the charges in said citation referred to, which said memorandum was in the following form, to-wit.

POST OFFICE DEPARTMENT,  
OFFICE OF THE ASSISTANT ATTORNEY GENERAL,  
WASHINGTON, January 21, 1909.

*Memorandum for the Assistant Attorney General.*

In re W. W. DEGGE, Boulder, Colorado.

This person is operating a scheme for obtaining money through the mails by means of false and fraudulent pretenses, representations and promises. Said scheme in a general way is about as follows:

He has created a Wellington Association, which he controls and dominates, and of which he is the owner except small interests in some other parties. From time to time he creates various other concerns, all of which he also controls and dominates. The stock of these various subsidiary concerns he sells through the mails to the public at various prices under par, using for the purpose great quantities of printed advertising circulars, therein falsely pretending that with the funds to be obtained from sale of such stock said companies will be developed into mining and other enterprises of great value and profit, and many other false statements. The funds obtained by such sale of stock he diverts to his own enrichment by various methods, such as by sale of property from said Association to the subsidiary company, by contracts for commissions to said Association for selling stock, and by various other methods.

In the operation of this scheme he is getting mail as The Wellington Association, The Wellington Development Company, The Wellington Investment Company, The Wellington System, and also in his own name, W. W. Degge.



I recommend that a fraud order be issues against him and these addresses.

P. V. KEYSER,  
*Assistant Attorney.*

9. That in response to the citation aforesaid the said W. W. Degge, together with his counsel, O. A. Erdman of Denver, Colorado, appeared at the time therein fixed, before R. P. Goodwin, Esquire, Assistant Attorney General for the Post Office Department of the United States, and showed good and sufficient cause in writing why a fraud order should not be issued, as mentioned in the said charges and citation.

10. That upon the said hearing no witnesses were sworn nor was any sworn testimony of any kind taken or considered, either in support of or in opposition to the said charges by the said R. P. Goodwin, but the only so-called evidence then and there considered by the said R. P. Goodwin consisted of the printed and published advertisements of the said W. W. Degge and printed circulars issued by him at various times, together with statements alleged to have been made by the said W. W. Degge on the eighteenth day of November, A. D. 1908 to Inspectors Birdseye and Durand of the said Post Office Department and taken down in writing; also a printed report contained in a circular headed "Success" of an audit of the books of the aforesaid and other corporations made by The Continental Audit Company of Denver, Colorado, as of the thirtieth day of June, A. D. 1908, which said circular was issued by the said W. W. Degge from Boulder, Colorado, in the month of November, A. D. 1908, and is marked Vol. V. No. 8; also a report in writing made by the said Inspectors Birdseye and Durand, purporting to contain the result of an examination made by them in the said month of November, A. D. 1908, of the books and records kept in the office of the said W. W. Degge at the said City of Boulder, Colorado.

11. That only a few of the statements made in writing by the said W. W. Degge showing cause as aforesaid why a fraud order should not be issued in the said matter were then, or at any time thereafter, considered by the said R. P. Goodwin, and the said W. W. Degge then and there upon the said hearing produced and submitted to the said R. P. Goodwin as evidence, a large number of exhibits consisting of letters, deeds, declarations of trust, certificates of stock, securities and other documents, all of which were then and there wholly ignored by the said R. P. Goodwin, and were never then nor thereafter considered by him.

12. That upon the completion of the said hearing the said R. P. Goodwin took the said matters under advisement, and thereafterwards, under date of March 8th, A. D. 1909, prepared and submitted as his findings and conclusions thereon to the aforesaid Frank H. Hitchcock, Postmaster General as aforesaid, a memorandum in writing, too lengthy to be incorporated in this petition, containing statements and deductions, drawn in detail from the so-called evidence so as aforesaid considered by him, and reported as his conclusions in the matter to the said Frank H. Hitchcock, that the said W. W.



Degge under his own name, and also under the several names of The Wellington Association, The Wellington Development Company, The Wellington Investment Company and The Wellington System, was engaged in operating and conducting a scheme for obtaining money through the United States mails by means of false and fraudulent pretenses, representations and promises, in violation of Section 3929 and Section 4041 of the Revised Statutes of the United States, and recommended that a fraud order be issued against the said W. W. Degge, The Wellington Association, The Wellington Development Company, The Wellington Investment Company aforesaid and The Wellington System, and their officers and agents as such, prohibiting the Postmaster at the said city of Boulder, Colorado, from delivering any mail received at the Post Office in the said City of Boulder, Colorado, to any of the aforesaid persons or corporations, which said memorandum was signed by the  
8      said R. P. Goodwin as such Assistant Attorney General and was then and there delivered to the said Frank H. Hitchcock, Postmaster General as aforesaid.

13. That thereafterwards the said Frank H. Hitchcock, as Postmaster General of the United States, adopted and confirmed the aforesaid so-called findings and conclusions of the said R. P. Goodwin so as aforesaid reported to him, the said Postmaster General, without any notice to the said W. W. Degge or to any of the aforesaid corporations, or any of the petitioners herein, and without any hearing of any objection thereto, and thereupon, to-wit, on the twenty-ninth day of March, A. D. 1909, the said Frank H. Hitchcock as Postmaster General of the United States, issued and transmitted to the Postmaster at the said city of Boulder, Colorado, an Executive order in the words and figures following, to-wit:

"Post Office Department,  
Washington.

*Order No. 2170.*

It having been made to appear to the Postmaster General, upon evidence satisfactory to him, that W. W. Degge, The Wellington Association, The Wellington Development Company, The Wellington Investment Company and The Wellington System, and their officers and agents as such, at Boulder, Colorado, are engaged in conducting a scheme or device for obtaining money through the mails by means of false and fraudulent pretenses, representations and promises, in violation of the act of Congress entitled "An act to amend certain sections of the Revised Statutes relating to lotteries, and for other purposes," approved September 19, 1890—

Now, therefore, by authority vested in him by said act, and by the act of Congress entitled "An act for the suppression of lottery traffic through international and interstate commerce and the postal service, subject to the jurisdiction and laws of the United States," approved March 2, 1895, the Postmaster General hereby forbids you to pay any Postal Money Order drawn to the order of said party and concerns, and you are hereby directed to inform the remitter of any



such postal Money Order that payment thereof has been forbidden,  
and that the amount thereof will be returned upon the pres-  
9 entation of the original order or a duplicate thereof applied  
for and obtained under the regulations of the Department.

And you are hereby instructed to return all letters, whether regis-  
tered or not, and other mail matter which shall arrive at your office  
directed to the said party and concerns, to the postmasters at the  
offices at which they were originally mailed, to be delivered to the  
senders thereof, with the word "Fraudulent" plainly written or  
stamped upon the outside of such letters or matter, provided, how-  
ever, that where there is nothing to indicate who are the senders of  
letters not registered, or other matter, you are directed in that case to  
send such letters and matter to the Division of Dead Letters with the  
word "Fraudulent" plainly written or stamped thereon, to be dis-  
posed of as other dead matter under the laws and regulations ap-  
plicable thereto.

(Signed)

F. H. HITCHCOCK,  
*Postmaster General.*

To the Postmaster, Boulder, Colorado.

(Case 61995-G.)"

14. That as the effect and result of the said order the stockholders  
in the said corporations respectively, and all other persons transact-  
ing business with any of the said Corporations or with the said W. W.  
Degge, are wholly and effectually prevented from communicating  
by means of the United States mail with the said W. W. Degge or  
any of the said Corporations, or any of their officers or agents as  
such at the City of Boulder, Colorado, and the said W. W. Degge  
and the said corporations and their officers and agents as such are  
and each of them is, wholly and effectually prevented from receiv-  
ing any communication through the United States mails at the said  
City of Boulder from any of the said Stockholders or other persons  
under any circumstances whatsoever.

15. That the business in which the said corporations and each of  
them and the said W. W. Degge, as President and Manager of  
10 each of the said Corporations, are engaged, and were engaged  
when the acts before complained of were committed, consists  
in making investments in lands, Irrigation Ditches, Irrigation  
reservoirs, Mines and Mining property, Corporate Stocks, Securities  
and the like, and neither the said W. W. Degge, nor any of the said  
corporations is or was at any of the times aforesaid engaged in any  
business or practices forbidden by Section 3929 or Section 4041 of  
the Revised Statutes of the United States, nor in conducting any lot-  
tery, gift enterprise, or scheme for the distribution of money, or of  
any real or personal property, by lot chance, or drawing of any kind,  
nor in any other scheme or device for obtaining money or prop-  
erty of any kind through the mails by means of false or fraudulent  
pretenses, representations or promises, nor anything prohibited by  
any law of the United States whatsoever.

16. That no evidence of any character or description showing or  
tending to show that either the said W. W. Degge or any of the said



corporations was or were engaged in any of the practices mentioned in Section 3929 or Section 4041 of the Revised Statutes of the United States aforesaid, was ever brought to the attention or knowledge of the said Frank H. Hitchcock, Postmaster General as aforesaid, or submitted to him at any time; neither was it made to appear to the said Frank H. Hitchcock, Postmaster General as aforesaid, on any evidence whatsoever, that either the said W. W. Degge or any of the said Corporations has or have ever been engaged in any business prohibited by the Postal Laws of the United States, or in any scheme or device for obtaining money or property of any kind through

11 the United States mails by means of false and fraudulent pretenses, representations or promises, as defined and set forth in Section 3929 or Section 4041 of the Revised Statutes of the United States aforesaid and the petitioners herein say that the said Frank H. Hitchcock, Postmaster General of the United States as aforesaid, had no jurisdiction whatsoever to issue the aforesaid order herein complained of.

17. That the facts shown by the evidence so as aforesaid submitted to or considered by the aforesaid R. P. Goodwin in the matter aforesaid, and reported by him to the said Frank H. Hitchcock, Postmaster General of the United States as aforesaid, upon which the said Frank H. Hitchcock acted in issuing the aforesaid order, are wholly insufficient in the law to sustain the findings and conclusions reported by the said R. P. Goodwin to the said Frank H. Hitchcock as aforesaid, and the said facts are wholly insufficient in the law to constitute any scheme or device for obtaining money through the United States mails by means of false and fraudulent pretenses, representations or promises, within the meaning of Section 3929 or Section 4041 of the Revised Statutes of the United States aforesaid, or any law whatsoever authorizing the said Postmaster General to issue the order herein complained of.

18. The petitioners herein further show to the Court that none of them have done anything unlawful in the prosecution of their business, neither have any of them used, nor are any of them using the United States mails for the transportation of anything  
12 vicious, dangerous, corrupting or immoral, nor anything justifying the Post Office Department of the United States in refusing to deliver any communications whatsoever sent to them or any of them through the United States mails, postage prepaid, addressed to the aforesaid Corporations respectively, or the Officers or agents thereof as such, or to the said W. W. Degge at Boulder, Colorado, but the said petitioners and each of them are advised and believe that they have the legal and Constitutional right to have any and all such communications before referred to transported by means of such mails and delivered to the said W. W. Degge, or to the aforesaid Corporations, respectively, their officers or agents as such at the said City of Boulder, Colorado, whenever the same are properly addressed, postage prepaid and deposited in the mails for that purpose, and the aforesaid order operates to deprive the said petitioners and each of them of their lawful and Constitutional right to the use of the said mails for the purposes aforesaid, in violation of



the Constitution and laws of the United States and particularly of Article 4 and Article 5 of the amendments to the Constitution of the United States aforesaid.

19. And the said petitioners further show to the Court that many of the said stockholders, and other persons, since the issuance of the said order herein complained of, have deposited in the United States mails sundry and divers letters, postage prepaid, addressed to the said W. W. Degge and to the Corporations aforesaid respectively, at the said City of Boulder in the State of Colorado aforesaid, many of them, containing remittances of money due the said corporations, or one or more of them, but none of which contained any matter forbidden by law, but the Postmaster at the said City of Boulder, acting by the direction and order of the said Frank H. Hitchcock, hereinbefore set forth and complained of, unlawfully and in violation of Article 4 of the amendments to the Constitution of the United States aforesaid, has unlawfully seized the said letters, without warrant at the said City of Boulder, Colorado, and has stamped them with the word "Fraudulent" upon the envelope in which the same were respectively enclosed, and has returned the same to the writers thereof respectively, and has therefore unlawfully deprived the petitioners herein of the use and facilities of the United States Mails, and of money and other property contained in the said letters, without due process of law and in violation of Article 5 of the Amendments to the Constitution of the United States aforesaid, and still continues so to do.

20. That the aforesaid order of the Postmaster General operates effectually to prevent the said The Wellington Association from transacting any business by mail, thereby causing the said Corporation a loss of profits exceeding the sum of twenty-five thousand dollars per annum, and as a result of the said order the said Corporation is wholly prevented from collecting more than one hundred thousand dollars due on stocks sold for the Wellington Development Company and The Wellington Investment Company aforesaid, and in so doing, and by the means and in the manner aforesaid the said Frank H. Hitchcock has exercised and is exercising an authority under the United States wholly unwarranted by the Constitution or laws of the United States.

21. The petitioners herein further show to the court that they have no remedy in the premises by appeal, writ of error or otherwise, save and except the writ herein prayed for.

Wherefore the petitioners respectfully pray the Court to issue its writ of Certiorari herein, commanding the said Frank H. Hitchcock, by a certain day to be designated and fixed in the said writ, to certify to this Honorable Court the record and proceedings in the matters aforesaid, together with all documents, exhibits and evidence, printed and written, submitted to or considered by the said R. P. Goodwin as aforesaid, and remaining on file in the office of the said Postmaster General, as well as the findings and conclusions upon which the said Postmaster General acted in issuing the order herein complained of, to the end that this Honorable Court may review the same, and the said petitioners further pray that upon



the hearing and review thereof this Honorable Court may forthwith quash, annul, set aside and hold for naught the aforesaid order herein complained of, at the costs of the respondent herein named, and that in the meantime the aforesaid order may be superseded and the execution thereof suspended according to law.

And the petitioners will ever pray.

O. A. ERDMAN,  
*Attorney for Petitioners.*

15 STATE OF COLORADO,  
*County of Boulder, ss:*

O. A. Erdman, being first duly sworn, upon his oath deposes and says that he is the attorney for the petitioners named and designated in the foregoing petition; that he has read the foregoing petition and knows the contents thereof, and that the same is true according to the best of his information, knowledge and belief.

O. A. ERDMAN,

Subscribed and sworn to before me this 3rd day of December, A. D. 1909.

My commission expires January 20th, 1913.

[SEAL.]

JOHN A. WEBBER,  
*Notary Public.*

*Rule to Show Cause.*

Filed Dec. 10, 1909.

In the Supreme Court of the District of Columbia.

At Law. No. 52209.

W. W. DEGGE, THE WELLINGTON ASSOCIATION, a Corporation; THE Wellington Development Company, a Corporation, and The Wellington Investment Company, a Corporation, Petitioners,

vs.

FRANK H. HITCHCOCK, as Postmaster General of the United States, Respondent.

16 Upon the petition filed herein it is this 10th day of December, A. D. 1909, ordered:

That the respondent show cause, if any he has, before this Court on Wed. December 15, A. D. 1909, at the hour of 10 A. M. why the prayer of said petition for a writ of certiorari should not be granted; provided a copy of this order be served upon the said respondent on or before December 11th, A. D., 1909.

WRIGHT, *Justice.*

*Marshal's Return.*

Served copy of within order on Frank Hitchcock, Postmaster General of the United States, personally.

December 10, 1909.

AULICK PALMER, *Marshal.*



*Order Extending Time for Filing Answer.*

Filed Dec. 15, 1909.

In the Supreme Court of the District of Columbia.

At Law. No. 52209.

W. W. DEGGE et al., Petitioners,  
vs.

FRANK H. HITCHCOCK, Postmaster-General of the United States.

17 It is this 15th day of December, A. D. 1909,

Ordered: That the time for the respondent to file his answer to the rule to show cause issued herein on the 11th day of December, A. D. 1909, be and the same is hereby extended to the 18th day of December, A. D. 1909.

It is further ordered: That the hearing on the said petition filed herein and the said answer to the rule to show cause be and the same is hereby extended to the 20th day of December, A. D. 1909.

By the Court.

WRIGHT, *Justice.**Answer of Respondent.*

Filed Dec. 20, 1909.

In the Supreme Court of the District of Columbia.

At Law. No. 52209.

W. W. DEGGE et al., Petitioners,  
vs.FRANK H. HITCHCOCK, Postmaster General of the United States,  
Respondent.

The respondent, Frank H. Hitchcock, Postmaster General of the United States, especially reserving unto himself all benefit of any exception to the uncertainties and defects of the petition filed herein, and to the lack of jurisdiction of this court over him to grant

18 the writ of certiorari to compel him to certify the records and documents referred to in said petition to this court, and of the lack of jurisdiction of this court to review the matters passed upon by this respondent involving the exercise of his judgment and discretion, and objecting to the lack of jurisdiction to interfere with this respondent in the course of his administrative duties, and especially excepting to the failure of the said bill to show any right on the part of the petitioners to the relief therein prayed for, and objecting to the lack of status on behalf of the petitioners to maintain their suit, nevertheless for answer unto said rule and the said petition \* says:



1, 2, & 3. That he is advised that the allegations contained in the first, second and third paragraphs of the petition are substantially true, but for want of personal knowledge can neither admit nor deny the same, and so far as it may be material, calls for strict proof thereof.

4. This respondent admits the allegations of the fourth paragraph of said petition that he was duly appointed, qualified, and is now acting as Postmaster General of the United States.

5. Answering the fifth paragraph of the said petition this respondent says that he is informed that some time prior to this respondent's becoming the Postmaster General of the United States, there was a complaint lodged in the Post Office Department of the United States, against the said W. W. Degge, and that the said charges were referred to the proper authorities of the Post Office Department, for investigation, but this respondent says that owing to the fact  
19 that many of the papers and records of the case now under consideration are not at present on file in the office of this respondent at Washington, District of Columbia, but are on file in the office of the Post Office Department at Denver, Colorado, this respondent cannot at the present time more fully answer the allegations of the said fifth paragraph, and so far as the same may be material, calls for strict proof thereof.

6. Answering the sixth paragraph of the said petition, this respondent is advised that the allegations therein contained are true.

7. This respondent admits the allegations contained in the seventh paragraph of the said petition, that on the twenty-first day of January, 1909, by direction of George von L. Meyer, the then duly appointed and qualified Acting Postmaster General of the United States, the aforesaid W. W. Degge was cited to answer a charge of using the United States mails in a scheme to defraud, and to show cause why a fraud order should not issue; and that said citation was duly served on the said W. W. Degge by the Postmaster in the city of Boulder, in the State of Colorado on or about the twenty-fifth day of January, 1909, and that the fifteenth day of February, 1909, was then fixed for hearing thereof. This respondent further says that he believes that the copy of the said citation set out in said seventh paragraph of said petition is a true copy but for more certainty refers to the original of the said citation, and calls for production thereof.

8. Answering the eighth paragraph of said petition, this  
20 respondent admits that accompanying said citation there was a written memorandum of the charges in said citation referred to, which said written memorandum fully set out and apprised the said W. W. Degge of the charges and complaints against him, the said Degge, and fully apprised him of the charges and matters to be considered, and which were eventually considered by this respondent in issuing the fraud order herein complained of. This respondent further says that he believes that the copy of the written memorandum of charges, as set out in said petition, is a true copy of the original memorandum, but for more particularity refers to



the original memorandum received by the said Degge, and calls for production and proof thereof.

9. Answering the ninth paragraph of said petition, this respondent admits, in response to the citation aforesaid, that said W. W. Degge accompanied by his duly authorized counsel, O. A. Erdman, appeared in person, in pursuance to said citation, before the Honorable R. P. Goodwin, Assistant Attorney General for the Post Office Department of the United States, on the fifteenth day of February, 1909, but this respondent denies that the said W. W. Degge showed good and sufficient cause in writing why a fraud order should not be issued as mentioned in said charges and citation. This respondent further says that the said W. W. Degge, although given a full and ample opportunity to file a written justification to the charges set out in the said citation, wholly failed in every particular to rebut, justify or show any excuse whatsoever for the fraudulent acts done by him, as set out in said citation, and although the

21 said Degge filed what purported to be an answer to the charges in said citation contained, the same are wholly insufficient in law and in fact to excuse, justify or explain any and all of the fraudulent acts of the said Degge referred to in said citation. Therefore this respondent denies that at said hearing or at any time has the said W. W. Degge shown good and sufficient cause why the said fraud order should not be issued as mentioned in said charges and citation. This respondent further says that the said R. P. Goodwin was, on the dates of the said hearing, to wit, the fifteenth and sixteenth days of February, 1909, and to the present time still is the Assistant Attorney General for the Post Office Department of the United States, and is the person duly authorized and charged with the duty of the hearing and preparation of cases relating to lotteries and misuse of the mail in furtherance of schemes to defraud the public, and that said hearing was held by him, the said R. P. Goodwin, as Assistant Attorney General for the Post Office Department of the United States, in pursuance to the said Sect. 16 par. 4 of the Postal Laws and Regulations, duly enacted in pursuance to Section 161, R. S. U. S., hereto appended, marked "Exhibit B" and prayed to be read as a part hereof.

10. Answering the tenth paragraph of said petition, this respondent says that he denies, as set out in said paragraph that no witnesses, were sworn, nor was any sworn testimony of any kind taken or considered, either in support of or in opposition to said charges, by said R. P. Goodwin, but this respondent says that in the presence of the said W. W. Degge and of his counsel, O. A. Erdman,

22 Postoffice Inspectors G. F. H. Birdseye, Esquire, and B. H. Durand, Esquire, were called as witnesses, and testifying under their oath of office, gave evidence in support of the said charges, and in further support thereof, written and printed advertisements, circulars and letters were presented to the said R. P. Goodwin for consideration, including also the other printed matter referred to in the said tenth paragraph of said petition, offered in evidence by P. F. Keyser, Assistant Attorney for the Post Office Department. This respondent further says that at said hearings, there



was presented in the presence of the said W. W. Degge and his counsel, all the testimony and written and printed evidence in support of said charges which was considered at any time by him, the said R. P. Goodwin, in drafting and making up his report on said case to the Postmaster General of the United States and opportunity was given at the said hearing on the fifteenth and sixteenth days of February, 1909, to the said W. W. Degge, and to his counsel, the said O. A. Erdman, of Denver, Colorado, to cross-examine the witnesses testifying at said hearing, and to offer in rebuttal to the said testimony and to the evidence adduced at said hearing, any verbal, written or printed evidence which they might care to produce to rebut the charges in said citation contained but that the said Degge and his counsel the said Erdman failed to offer any material testimony to rebut the said charges; but the said Erdman, as counsel for the said Degge, was heard by the said Goodwin at length in an oral argument at the said hearing, both on the fifteenth day of February,

23 and at an adjourned meeting on the sixteenth day of February, 1909, and at the conclusion thereof the said Erdman, as counsel for the said Degge, requested further time to submit evidence, and in pursuance to said request, he was allowed until the second day of March to present such further evidence as he might desire, the said Erdman stating at that time that such continuance until the second day of March was all that he desired, and that this would allow him ample time to file any matters which he might desire in said case; that thereafter, and prior to the second day of March, 1909, the said R. P. Goodwin received from the said Erdman, as counsel for said Degge, a written argument upon the said case under consideration, which was duly considered by him, the said Goodwin, in pursuance to the authority in him invested, as set out in the ninth paragraph of this answer, in the preparation of his report to the Postmaster General of the United States. This respondent further denies each and every allegation in the tenth paragraph of said petition, as alleged, and says that the truth and the facts are as hereinbefore set forth; that the evidence was "satisfactory" to the Postmaster General and was such evidence as he was fully authorized and empowered by law to consider in determining whether the fraud order should be issued by him. For a more complete answer to the said tenth paragraph of the said petition, this respondent refers to a certified copy of the report of the said R. P. Goodwin upon the case of the said W. W. Degge, the Wellington Association, the Wellington Development Company, the Wellington Investment Company, and the Wellington System, which said report, entitled "Memorandum for the Postmaster General" and dated March 8, 24 1909, and also a copy of the order of the Postmaster General dated March 29, 1909, and a copy of the letter from said R. P. Goodwin, Assistant Attorney General to the postmaster at Boulder, Colorado, dated March 30, 1909 which said certified copies are hereto appended and marked Respondent's Exhibits A, A1, and A2 respectively, and prayed to be read as a part of this answer.

11. Answering the eleventh paragraph of said petition, this respondent denies that only a few of the statements made in writing



by the said W. W. Degge, purporting to show cause why a fraud order should not issue in said matter, were then or at any time thereafter considered by the said R. P. Goodwin, as Assistant Attorney General for the Postoffice Department, and this respondent denies that at said hearing a large number of exhibits consisting of letters, deeds, declarations, trusts, certificates of stock, securities and other documents, presented on behalf of the said W. W. Degge, were then ignored by the said R. P. Goodwin, or were never then nor thereafter considered by him; and this respondent says that the allegations in the said eleventh paragraph are false and misleading, and your respondent avers the facts to be that all of the matters submitted by the said Degge and by his attorney at the said hearing on the fifteenth and sixteenth days of February, 1909, and at any other time prior to and including the second day of March, 1909, were given by him, the said R. P. Goodwin, as Assistant Attorney General for the Post Office Department, in pursuance to the authority vested in him as set out in the ninth paragraph of this answer,

25 a full and impartial investigation and consideration, and the said matters, evidence, and papers produced by him, the said Degge, and the argument of counsel for the said Degge, were fully considered by the said Goodwin and by the Postmaster General of the United States, as a basis upon which his said order of March 29th was made.

12. This respondent admits the allegations of the twelfth paragraph of the said petition, but for more particularity refers to the copy of the memorandum of the said R. P. Goodwin, dated March 8, 1909, and the orders issued thereon, which said copy is filed herewith and prayed to be read as a part of this answer.

13. Answering the thirteenth paragraph of said petition, this respondent says that he admits that on the twenty-ninth day of March, 1909, this respondent issued and transmitted to the postmaster of the City of Boulder, Colorado, an Executive order, a true copy whereof is appended to "Respondent's Exhibit A," filed herewith, and prayed to be read as a part hereof. This respondent, however, denies that he adopted and confirmed the findings and conclusions of the said R. P. Goodwin, without any hearings or objections thereto, as alleged in said petition, but this respondent says that the said W. W. Degge had a full and complete opportunity for hearing, and was heard and represented by counsel as hereinbefore set out in this answer, and in pursuance to the law and the rules of this Department, as set out in the ninth paragraph of this answer and the

26 said Degge had an opportunity to submit evidence, and cross-examine witnesses, and the counsel of the said Degge was permitted and did argue the said case at length, as hereinbefore set out, and did further submit a written argument in support of the contentions of his client, and this respondent says that all of the matters submitted to the said Assistant Attorney General, and considered by him, were considered by this respondent, and no other matters other than those considered by the said Assistant Attorney General, were considered by this respondent in forming his order of March 29th, 1909, referred to in said petition.



Such evidence as was considered by this respondent was satisfactory to him and was such as he was authorized to consider, and such evidence satisfied him that the said W. W. Degge, the Wellington Association, the Wellington Development Company, the Wellington Investment Company, and the Wellington System, and their officers and agents as such were then and had for some time prior thereto been "engaged in conducting a scheme for obtaining money through the mails by means of false and fraudulent pretenses, representations and promises."

This respondent further says that the hearing accorded the petitioners was had in pursuance to the rules and regulations of the Postoffice Department, and said hearing was duly accorded, and every opportunity was given to present a defense; that there was no defense presented to the charges in the citation contained; that the facts shown by the evidence in support of the charges were not contradicted nor rebutted in any particular; that the evidence was amply satisfactory to the Assistant Attorney General and to this respondent; that the charges were sustained, and further this respondent says that although a hearing was duly had and full opportunity given to rebut the charges, that such hearing was not accorded the said Degge as a matter of right, but one of grace, in that there is no law requiring a hearing in cases of this character, but the only requirement of the law is that the evidence in support of the charges shall be satisfactory to the Postmaster General.

14. Answering the fourteenth paragraph of the said petition this respondent says that the effect and result of the said order is shown by the terms thereof, a copy of which said order is filed herein, marked Respondent's Exhibit A and prayed to be read as a part of this paragraph. Answering the remaining allegations of said paragraph, this respondent says that they contain mere conclusions of law, which he is advised he is not called upon to answer.

15. This respondent denies that the business in which the said corporations and each of them and the said W. W. Degge as President and Manager of each of said corporations, were engaged at the time the order complained of was issued, and in which they had for some time theretofore been engaged, was a legal investment business in lands, irrigation ditches, irrigation reservoirs, mining property, corporate stocks, securities and the like; and this respondent denies that neither the said W. W. Degge nor any of the said corporations is not nor was at any time engaged in any business or practices forbidden by Section 3929 and Section 4041 of the Revised Statutes of the United States, or prohibited by any law of the United States.

28 This respondent avers that in truth and in fact the said W. W. Degge was, at the time of the issuance of the said fraud order by this respondent, and for a long time prior thereto operating a scheme for obtaining money through the mails by means of false and fraudulent pretenses, representations and promises; that the said scheme, as will appear to be more fully set out in the report of R. P. Goodwin, Assistant Attorney General, filed herein, and



marked Respondent's Exhibit A, and prayed to be read as a part of this answer, was carried on by the said W. W. Degge in substance as follows:

That he, the said W. W. Degge, created a "Wellington Association," which he controls and dominates, and is the owner of said company, except for some small outstanding interests in other parties, whom he also controls; that from time to time the said Degge created various other concerns, all of which he controls and dominates, these other concerns being termed the "Wellington Development Company," the "Wellington Investment Company," and the "Wellington System"; that the stock of the various subsidiary concerns the said Degge sold through the mails to the public at various prices under par, using for the purpose great quantities of printed advertising circulars, therein falsely pretending that with the funds so obtained from the sales of such stock the said companies would be developed into mining and other enterprises of great value and profit, and through such advertisements and circulars the said Degge made other false and fraudulent statements; that the funds obtained by such sale of stock, he, the said Degge, diverted to his own enrichment by various methods, such as by the sale of property  
29 from the said Association to said subsidiary companies, by contracts for commissions to said Association for selling stock, and by various other illegal and fraudulent methods; that in the operation of this scheme the said Degge was getting mail through the post office establishment of the United States as the Wellington Association, the Wellington Development Company, the Wellington Investment Company and the Wellington System, and also in his own name, W. W. Degge; all of which will more fully and at large appear by the report of the said R. P. Goodwin, filed herein, and marked Respondent's Exhibit A, and prayed to be read as a part of this paragraph.

16. Answering the sixteenth paragraph of said petition, this respondent denies that no evidence of any character or description showing or tending to show that either the said W. W. Degge or any of said corporations were engaged in any of the practices mentioned in Section 3929 and Section 4041 of the Revised Statutes of the United States was ever brought to his attention and knowledge; but this respondent says that upon evidence satisfactory to him, which said evidence had formally, in the presence of the said W. W. Degge and his counsel, been presented to the said R. P. Goodwin, Assistant Attorney General for the Postoffice Department, in pursuance to law, as set out in this answer, and after a full hearing had been given to the said Degge as herein set out, and the report therein referred to this respondent, that under authority vested in him, and being satisfied upon the evidence presented that the said Degge and the various companies named in said order were  
30 conducting a scheme for obtaining money through the mails by means of false and fraudulent pretenses, representations and promises, did on the 29th day of March 1909, issue to the Postmaster at Boulder, Colorado, the order denying the use of said mails to the said Degge and the said companies, as will more



specifically appear by a true copy of said order filed herein and marked Respondent's Exhibit A, and prayed to be read as a part of this paragraph.

This respondent further says that the evidence so offered was satisfactory to the said Assistant Attorney General for the Postoffice Department, and was fully considered by him and by this respondent, and that the said evidence did satisfy this respondent that the said Degge and the said corporations were conducting a scheme through the means aforesaid to defraud by use of the mails, in violation of Section 3929 and Section 4041 of the Revised Statutes of the United States, and that thereupon, acting within his own discretion as Postmaster General of the United States, and by virtue of the authority in him imposed by statute, this respondent issued the said order of March 29th, 1909.

This respondent further says that the matter of deciding whether or not the said scheme set forth in this answer is one against which a fraud order should issue, is committed by law to his judgment and determination, and that in determining the said matter the discretion vested in him is not reviewable by the court.

17. Answering the seventeenth paragraph of the said petition, this respondent denies that the facts shown by the evidence submitted to and considered by the said R. P. Goodwin, Assistant Attorney General, in pursuance to the authority vested in him as set out in the ninth paragraph, and reported by him to this respondent, upon which this respondent is alleged to have acted in issuing the said order, are wholly insufficient in law to sustain the findings and conclusions in said paragraph referred to. This respondent further denies that the said facts are wholly insufficient in law to constitute any scheme or device for obtaining money through the United States mails by means of false and fraudulent pretenses, representations, and promises, within the meaning of Section 3929 and Section 4041 of the Revised Statutes of the

32 United States, or of any law whatsoever authorizing this respondent to issue the order complained of in said petition.

On the contrary, this respondent says that the evidence adduced

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marked Respondent's Exhibit A, and prayed to be read as a part of this answer, was carried on by the said W. W. Degge in substance as follows:

That he, the said W. W. Degge, created a "Wellington Association," which he controls and dominates, and is the owner of said company, except for some small outstanding interests in other parties, whom he also controls; that from time to time the said Degge created various other concerns, all of which he controls and dominates, these other concerns being termed the "Wellington Development Company," the "Wellington Investment Company," and the "Wellington System"; that the stock of the various subsidiary concerns the said Degge sold through the mails to the public at various prices under par, using for the purpose great quantities of printed advertising circulars, therein falsely pretending that with the funds so obtained from the sales of such stock the said companies would be developed into mining and other enterprises of great value and profit, and through such advertisements and circulars the said Degge made other false and fraudulent statements; that the funds obtained by such sale of stock, he, the said Degge, diverted to his own enrichment by various methods, such as by the sale of property

29 from the said Association to said subsidiary companies, by contracts for commissions to said Association for selling stock, and by various other illegal and fraudulent methods; that in the operation of this scheme the said Degge was getting mail through the post office establishment of the United States as the Wellington Association, the Wellington Development Company, the Wellington Investment Company and the Wellington System, and also in his own name, W. W. Degge; all of which will more fully and at large appear by the report of the said R. P. Goodwin, filed herein, and marked Respondent's Exhibit A, and prayed to be read as a part of this paragraph.

16. Answering the sixteenth paragraph of said petition, this respondent denies that no evidence of any character or description showing or tending to show that either the said W. W. Degge or any of said corporations were engaged in any of the practices mentioned in Section 3929 and Section 4041 of the Revised Statutes of the United States was ever brought to his attention and knowledge; but this respondent says that upon evidence satisfactory to him, which said evidence had formally, in the presence of the said W. W. Degge and his counsel, been presented to the said R. P. Goodwin, Assistant Attorney General for the Postoffice Department, in pursuance to law, as set out in this answer, and after a full hearing had been given to the said Degge as herein set out, and the report therein referred to this respondent, that under authority vested in him, and being satisfied upon the evidence presented that the said Degge and the various companies named in said order were conducting a scheme for obtaining money through the mails

30 by means of false and fraudulent pretenses, representations and promises, did on the 29th day of March 1909, issue to the Postmaster at Boulder, Colorado, the order denying the use of said mails to the said Degge and the said companies, as will more



specifically appear by a true copy of said order filed herein and marked Respondent's Exhibit A, and prayed to be read as a part of this paragraph.

This respondent further says that the evidence so offered was satisfactory to the said Assistant Attorney General for the Postoffice Department, and was fully considered by him and by this respondent, and that the said evidence did satisfy this respondent that the said Degge and the said corporations were conducting a scheme through the means aforesaid to defraud by use of the mails, in violation of Section 3929 and Section 4041 of the Revised Statutes of the United States, and that thereupon, acting within his own discretion as Postmaster General of the United States, and by virtue of the authority in him imposed by statute, this respondent issued the said order of March 29th, 1909.

This respondent further says that the matter of deciding whether or not the said scheme set forth in this answer is one against which a fraud order should issue, is committed by law to his judgment and determination, and that in determining the said matter the discretion vested in him is not reviewable by the court.

17. Answering the seventeenth paragraph of the said petition, this respondent denies that the facts shown by the evidence submitted to and considered by the said R. P. Goodwin, Assistant Attorney General, in pursuance to the authority vested in him as set out in the ninth paragraph, and reported by him to this respondent, upon which this respondent is alleged to have acted in issuing the said order, are wholly insufficient in law to sustain the findings and conclusions in said paragraph referred to. This respondent further denies that the said facts are wholly insufficient in law to constitute any scheme or device for obtaining money through the United States mails by means of false and fraudulent pretenses, representations, and promises, within the meaning of Section 3929 and Section 4041 of the Revised Statutes of the United States, or of any law whatsoever authorizing this respondent to issue the order complained of in said petition.

On the contrary, this respondent says that the evidence adduced

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as aforesaid was undeniably and without question so clear and convincing to the mind of this respondent and to the mind of the said R. P. Goodwin, Assistant Attorney General for the Postoffice Department, and this respondent believes that the said evidence would be so clear and convincing to any unprejudiced mind so reviewing the same, as to lead to no other conclusion than that arrived at by the said R. P. Goodwin, Assistant Attorney General for the Postoffice Department, and this respondent; that the said evidence fully and in every particular supported the conclusion arrived at by the said R. P. Goodwin, Assistant Attorney General for the Postoffice Department, and the order of this respondent, and for a more particular detail of the said evidence and of the character of the business transacted by the said Degge and his various companies, reference is had to the memoranda of the said R. P. Goodwin, Assistant Attorney

respondent says that he had no personal knowledge of the allegations in said paragraph contained, and so far as the same may be material calls for strict proof thereof. This respondent, however, denies the conclusions in said paragraph contained, and further denies that the said acts therein referred to are unlawful or in violation of Article 4 of the Amendments to the Constitution of the United States or are in violation of Article 5 of the Amendments to the Constitution of the United States.

20. Answering the twentieth paragraph of the said petition, this respondent says that he has no personal knowledge of the allegations concerning the loss of profits of said corporations, but as far as the same may be material calls for strict proof thereof.

This respondent, further answering, says that the said order issued by him on the 29th day of March, A. D. 1909, is still in full force and effect, but this respondent denies that by means of said order he has exercised or is now exercising an authority under the United States wholly unwarranted by the Constitution or laws of the United States, but on the contrary this respondent avers that under Section 3929 and

section 4041 of the Revised Statutes of the United States it is  
34 the duty of this respondent in his official capacity as Postmaster General of the United States upon evidence satisfactory to him that persons or companies are engaged in conducting a scheme



or device for obtaining money through the mails by means of false or fraudulent pretenses, representations or promises, to issue an order similar to that issued by this respondent on the twenty-ninth day of March, 1909, against the said W. W. Degge and his various associations; and this respondent further says that pursuant to Section 161 of the Revised Statutes of the United States, authorizing the Postmaster General of the United States to prescribe rules and regulations not inconsistent with law for the distribution and performance of the business of the said department, the said R. P. Goodwin the then duly authorized and acting Assistant Attorney General for the Postoffice Department, was by section 21 of the Postal Laws and Regulations the duly authorized person constituted with the power of hearing cases relating to lotteries and the misuse of the mails in the furtherance of schemes to defraud the public, and that in pursuance of citations duly issued a hearing was accorded to the said W. W. Degge on his own behalf and on behalf of the various companies controlled by him and named in said order of this respondent of March 29th, 1909, and the said Degge was permitted at said hearing and adjournments thereof to offer testimony, to cross-examine witnesses if he so desired, and to be represented by counsel, and in this said particular, as more fully set out in this answer, the said

35     Degge has been fully accorded an ample and complete hearing, as will more fully appear by copy of the report of the said R. P. Goodwin, Assistant Attorney General for the Postoffice Department, filed herein, and marked Respondent's Exhibit A, and prayed to be read as a part of this answer; that the order of this respondent denying the use of the mails was passed upon the evidence adduced at said hearing, which evidence was satisfactory to this respondent; that the order therein referred to was proper to be made by him as Postmaster General of the United States in the proper enforcement of his administrative duties as such officer.

21. Answering the twenty-first paragraph of said petition, this respondent denies that the petitioners have no remedy save and except the writ of certiorari prayed for in said petition. This respondent avers that the said writ is and would be improper to review the action of this respondent as Postmaster General of the United States in the performance of the official and administrative duties as such officer, and this respondent says that he is advised and therefore believes that this Court is without jurisdiction to issue the writ prayed for in said petition or to review the action of this respondent as such officer, and this Court is without jurisdiction to quash, annul, set aside or hold for naught the said order of this respondent.

This respondent further says that the matter of deciding whether or not said scheme set forth in this answer is one against which a fraud order should issue, is committed by law to his judgment and determination, and that in determining the said matter the discretion vested in him is not reviewable by the Court, in this proceeding.

36     And having answered the said petition and the rule to show cause filed herein, this respondent prays that the said petition be dismissed and the rule to show cause be discharged, and



your respondent further prays to be hence dismissed from further answer with costs.

FRANK H. HITCHCOCK,  
*Postmaster General of the United States of America.*

DANIEL W. BAKER,  
Per R. G. H.,  
*U. S. Att'y for D. C.,*  
*Attorney for Respondent.*

DISTRICT OF COLUMBIA, ss:

I, Frank H. Hitchcock, being first duly sworn, on oath depose and say that I am the Postmaster General of the United States of America; that I have read the foregoing answer by me subscribed and know the contents thereof; that the matters and things therein stated of my own knowledge are true, and those stated on information and belief I believe to be true.

FRANK H. HITCHCOCK.

Subscribed and sworn to before me this 19th day of December, 1909.

[SEAL.]

GEORGE W. RIEK,  
*Notary Public, D. C.*

37

(RESPONDENT'S EXHIBIT B.)

*Supplement to the Postal Laws and Regulations of the United States of America.*

*Sec. 16, Paragraph 4.* The Assistant Attorney General is charged with the duty of giving opinions to the Postmaster General and the heads of the several offices of the Department upon questions of law arising upon the construction of the Postal Laws and Regulations, or otherwise, in the course of business in the postal service; with the consideration and submission (with advice) to the Postmaster-General of all claims of postmasters for losses by fire, burglary, or other unavoidable casualty, and of all certifications by the Auditor for the Post-Office Department of cases of proposed compromises of liabilities to the United States, and of the remission of fines, penalties and forfeitures under the statutes; the keeping and preparation of all correspondence with the Department of Justice relating to prosecutions and suits affecting or arising out of the postal service, and with the consideration of applications for pardon for crimes committed against the postal laws which may be referred to the Department; with the preparation and submission (with advice) to the Postmaster General of all appeals to him from the heads of the offices

38 of the Department depending upon questions of law; with the determining of questions as to the delivery of mail the ownership of which is in dispute; with the hearing and consideration of cases relating to lotteries and the misuse of the mails in furtherance of schemes to defraud the public; with the consideration



of all questions relating to the mailability of alleged indecent, obscene, scurrilous, or defamatory matter; with the examining and, when necessary, drafting of all contracts of the Department; and with such other like duties as may from time to time be required by the Postmaster-General.

39

RESPONDENT'S EXHIBIT A.

Form 278.

P. V. K.

Post Office Department,  
Office of the  
Assistant Attorney General,  
Washington.

File No. —.

MARCH 30, 1909.

Postmaster, Boulder, Colorado.

SIR: I inclose herewith a copy of order No. 2170, dated March 29, 1909, forbidding the delivery of mail matter and the payment of money orders to W. W. Degge, The Wellington Association, the Wellington Development Company, the Wellington Investment Company, and the Wellington System, and their Officers and Agents as Such, the original of which, signed by the Postmaster General, has been retained on the files of this Department.

In the enforcement of this order, please observe the following general regulation, published in the United States Postal Guide for January, 1903 (page 955, section 30), viz:

"Postmasters are notified that fraud orders issued under the provisions of the Acts of September 19, 1890 (26 Stats. L. 465) and March 2, 1895 (28 Stats. L. 963) do not cover mail matter under the frank of a Senator or Representative or other officer entitled to the franking privilege, nor that which is covered by an official envelope. Nor do these orders apply to matter not under seal, such as newspapers, circulars, etc., unless specifically stated in the order, or by subsequent letter of instructions."

40

Very respectfully,

R. P. GOODWIN,  
Assistant Attorney General.

Post Office Department,  
Washington.

Order No. 2170.

It having been made to appear to the Postmaster General, upon evidence satisfactory to him, that W. W. Degge, The Wellington Association, The Wellington Development Company, The Wellington Investment Company, and The Wellington System, and their officers and Agents as Such, — at Boulder, Colorado, are engaged in conducting a scheme or device for obtaining money through the mails by means of false and fraudulent pretenses, representations, and promises, in violation of the act of Congress entitled "An act



to amend certain Sections of the Revised Statutes relating to lotteries, and for other purposes," approved September 19, 1890—

Now, therefore, by authority vested in him by said act, and by the act of Congress entitled "An act for the suppression of lottery traffic through international and interstate commerce and the postal service, subject to the jurisdiction and laws of the United States" approved March 2, 1895, the Postmaster General hereby forbids you

41 to pay any post Money Order drawn to the order of said party and concerns, and you are hereby directed to inform the remitter of any such postal money order that payment thereof has been forbidden, and that the amount thereof will be returned upon the presentation of the original order or a duplicate thereof applied for and obtained under the regulations of the Department.

And you are hereby instructed to return all letters, whether registered or not, and other mail matter which shall arrive at your office directed to the said party and concerns, to the postmasters at the offices at which they were originally mailed, to be delivered to the senders thereof, with the word "Fraudulent" plainly written or stamped upon the outside of such letters or matter. Provided, however, that where there is nothing to indicate who are the senders of letters not registered or other matter, you are directed in that case to send such letters and matter to the Division of Dead Letters with the word "Fraudulent" plainly written or stamped thereon, to be disposed of as other dead matter under the laws and regulations applicable thereto.

F. H. HITCHCOCK,  
*Postmaster General.*

To the Postmaster, Boulder, Colorado.

(Case 61995-C.)

42

S. K.

MARCH 8, 1909.

*Memorandum for the Postmaster General.*

In re W. W. DEGGE, THE WELLINGTON ASSOCIATION, THE WELLINGTON Development Co., The Wellington Investment Co., The Wellington System, Boulder, Colorado.

On January 21, 1909, W. W. Degge, of Boulder, Colorado, promoter of the companies mentioned in the caption of this memorandum, was cited to answer the charge of using the mails in a scheme to defraud, and to show cause why a fraud order should not be issued. This notice was served on him by the Postmaster at Boulder January 25th, and February 15th was fixed for the hearing. At that time Mr. Degge appeared before me in response to said notice with his attorney, Mr. O. A. Erdman, of Denver, Colorado, and was heard at length. Inspectors Birdseye and Durand, who investigated the case, were present at my request. Both the 15th and 16th of February were consumed in the hearing, and at its conclu-



sion the respondent asked further time in which to submit additional evidence. I allowed him until March 2nd to present such further matters, and the same have now been received and carefully considered.

43 Mr. Degge has been engaged for the past several years and is now engaged in using the mails to sell to the general public shares of stock in several corporations which he has organized and promoted for the alleged purpose chiefly of developing mining properties and irrigation projects. He has accomplished the sale of these stocks by the use of a great number of false and fraudulent pretenses and representation, and instead of honestly investing the funds for the benefit of the purchasers of stock in accordance with his promises, he has manipulated the concerns so as to divert large portions of such funds to his own enrichment. Those misrepresentations and diversions will be set out briefly in the following narrative of his operations.

The facts that are hereinafter given are based entirely unless it is otherwise specifically stated, upon Mr. Degge's published advertisements and circulars, upon statements made November 18, 1908, to the Inspectors and taken down in writing; upon the facts shown by the audit made, at his request, of his books by the Continental Audit Company, of Denver, Colorado, dated November 6, 1908, and showing the condition of the books as of June 30, 1908, and upon facts obtained by examination of Mr. Degge's books and records by the Inspectors at their interview with Mr. Degge in November.

44 The Wellington Association was incorporated January 2, 1905, for \$500,000 shares of a par value of \$1 each. Mr. Degge has used this company as his inside corporation. On November 18, 1908 Mr. Degge stated to the Inspectors that at that time he and his family held 225,000 shares of common and 31,250 shares of preferred, and that the only other stock outstanding were 124,770 shares of preferred held by 607 individuals. The Inspectors state that the stock sold the public was sold by Mr. Degge through the mails by advertising prior to May, 1906, as from that time to the time of the investigation in November, 1908, the records of Mr. Degge and the Association showed that no stock of the Association was sold to the public. The stock holdings of Mr. Degge and his family, with the exception of 6,250 shares of preferred, were obtained at the organization in exchange for certain properties, mining and oil stocks, etc. Mr. Degge's answer to the citation to show cause increases by a few hundred shares the amount of preferred stock held by the public at the time the answer was submitted, February 16, 1909, albeit he states the number of stockholders is still the same. The audit taken as of June 30, 1908, shows 156,020 shares of preferred stock then outstanding. These slight discrepancies are probably due to the fact that this stock has been sold on the installment plan, and the stock was not shown on the records as outstanding until fully paid for. The stock holdings of Mr. Degge in the subsidiary companies is quite in contrast to his holdings in the Association. His holding- in the subsidiary companies are nominal, except where he engaged in buying stock of a subsidiary company and



reselling same to the public at a large advance and profit to himself personally.

Since that time he has organized and promoted the following subsidiary companies:

The Wellington Goldfield Mining Company, incorporated June 10, 1905, under the laws of Arizona, with 1,500,000 shares of stock of par value of 25 cents per share.

45 The Manhattan Chief Gold Mining Company, incorporated under the laws of Arizona February 6, 1906, with 1,000,000 shares of stock of par value of \$1 a share.

The Midway Mines and Towns Company, incorporated under the laws of Arizona March 29, 1906, with 1,000,000 shares of stock at par value of \$1.

The Wellington Realty Company, incorporated April 10, 1906, under the laws of Colorado, with 5,000 shares of stock of par value of \$100 per share. Very little of this stock has been sold to the public,—only 54 shares to 20 persons, of which 20 shares are held by two persons, and for which only \$2,750 was received by the treasury of this company. The Association early ceased offering this stock, and instead retained practically all of same for itself. The Association holds 1,000 shares, which is the only stock issued outside of the 54 shares held by the public.

The Wellington Development Company, incorporated January 10, 1907, under the laws of Arizona, with a capital stock of 3,000,000 shares, par value \$1 each. Its stockholders number 1,900 persons.

The Wellington Investment Company, incorporated January 4, 1908, under the laws of Arizona, with a capital stock of 3,000,000 shares of par value of \$1 per share. Its stockholders number 1,007.

The audit of the Continental Audit Company shows that the treasuries of the Association and subsidiary companies have received from the sale of stock the following amounts:

Wellington Association.....	\$115,720.00
Wellington Goldfield Mining Company.....	18,992.90
Manhattan Chief Gold Mining Company.....	11,386.25
Midway Mines and Town Company.....	1,582.50
Wellington Realty Co.....	2,750.00
Wellington Development Company.....	181,644.00
Wellington Investment Company.....	78,058.00
	<hr/>
	\$410,133.65
46 Stock bought by Asso. of Dev. Co.....	\$35,000
Stock bought by Degge of Dev. Co.....	10,000
Stock bought by Asso. of Goldfield Co.....	2,700
	<hr/>
	47,700.00
Amount paid by general public for treasury stock....	\$362,433.65
Deduct: Association sales.....	115,720.00
	<hr/>
Amount paid by public to treasuries of subsidiary companies for stock.....	\$246,713.65



The audit shows that over \$130,000 of this \$246,713.65 has been diverted as "profits" to the Association (greatly to the benefit of W. W. Degge), and that the business has been so manipulated that the Association has made large cash profits out of each and every company, and left every company but one heavily in debt to the Association. The "profits" diverted to the Association, in the face of the much advertised equity of this system, out of the money paid by the public for stock into the treasuries of the subsidiary companies are given by the audit company as follows:

On mines sold Development Co.....	\$4,999.95
On sale to Realty Co.....	1,470.00
On sale of Wellington Gardens to Dev. Co.....	13,333.33
On sale of Wellington Gardens to Inv. Co.....	38,333.34
On sale to Wellington Goldfield Co.....	97.00
On promotion of Manhattan Chief Co.....	3,000.00
On sales of mines to Investment Co.....	10,000.00
On sale of Tri-Metallic stock to Inv. Co.....	8,333.33
Brokerage (Commissions for selling stock).....	62,004.05

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\$141,571.00

Deduct 25% commission charged by Asso. against Dev. Co. on stock bought by Asso. and Degge from Dev. Co.....	11,250.00
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Amount of profit diverted to Asso. from public's payments to treasuries of subsidiary companies..... \$130,321.00

The audit shows that the Association has further "profited" by securing quantities of stock of the subsidiary companies and reselling same to the general public at large profits for its private benefit and without benefit to the companies from which the stocks were taken, in the place of filling orders with stock from the treasury of the subsidiary company. The profits on stocks so sold are given in the audit as follows:

Midway Mines & Town Co.....	\$505.00
Manhattan Chief Co.....	6,496.40
Wellington Development Co.....	49,746.59
Wellington Investment Co.....	331.00

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\$57,078.99

(*See note below) Profit of W. W. Degge from sale to public of stock of Development Company for his private account (approximately).....	16,000.00
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\$73,078.99

(*See note below) Add the 25% commissions charged by the Asso. on sales of Dev. stock to the Asso. and Degge.....	11,250.00
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Total..... \$84,328.99

(\*) NOTE.—The item of \$11,250.00 "commissions" referred to  
4—2115A



above is shown by the audit in the brokerage profit of \$62,004.05. I have deducted same from that item for the purpose of comparing the amount contributing by the public for stock to the treasuries of the subsidiary Companies and the portion of that amount taken by the Association as profits. I have included it in the profit on the private sale of stock because it reduced by that amount the cost to the Association of the stock bought by it and Mr. Degge from the Development Company and thus increased the "profit" of the Association when that stock was resold to the public.

The \$16,000.00 profit of Mr. Degge was not shown on the books of the Association and so was not shown by the audit. The same was learned by the Inspectors from their examination of Mr. Degge and his records. They found that in the Spring of 1907, when the stock of the Development Company was selling at 25 cents, Mr. Degge instead of filling orders with the Development Company's treasury stock filled the orders with private holdings of the Association, to its profit of \$49,746.59 as shown above, and with his private holdings of stock which he had bought from the development Company a few months previously at 10 cents and for which he did not pay the Development Company until months after he had sold same at 25 cents.

According to the audit, the Wellington Association still holds large blocks of stock in the subsidiary companies, which it lists in its assets at the following value:

Wellington Realty Company.....	\$9,970.00
Manhattan Chief.....	1,473.90
Wellington Goldfield.....	2,967.60
Wellington Development Co.....	37,050.44
Wellington Investment Co.....	19,265.00
Total .....	<u>\$70,726.94</u>

The various subsidiary companies are shown by the audit to be in debt to the Association as follows:

Wellington Goldfield M. Co.....	\$8,285.96
Wellington Investment Co.....	55,665.43
Wellington Development Co.....	358.92
Midway Mines and Towns Co.....	1,861.19
Wellington Realty Co.....	666.47
Total .....	<u>\$46,837.97</u>

The total amount of money shown to have been paid by the public to Mr. Degge for stock in the Association and the subsidiary companies (treasury and private) is as follows:



The treasuries of subsidiary companies.....	\$246,713.65	
To treasury of Association.....	115,720.00	
To Degge and Association for stock sold for their private account,		
Profit.....	\$73,078.99	
Cost.....	47,700.00	
		<hr/>
		120,778.99
		<hr/>
		\$483,212.64

The audit shows no profit to the Association from the sale of Goldfield Mining Company stock, and instead charges a loss to the Association on that account of \$1621.05. The Association received 700,000 shares of stock of this company in exchange for five undeveloped mining claims which had cost the Association but a nominal amount. In addition it received 120,000 shares as promotion stock, and bought 100,000 shares for \$2,700.00. Practically, therefore, the Association received 920,000 shares of Goldfield stock for \$2,700.00. To the time of the audit it sold of this stock a considerable amount, and received therefor \$5,111.35, and then had on hand 327,260 shares that were given a value of \$2,967.60. Accordingly the Association had received for \$2,700.00 a value of \$8,078.95, or a profit of \$5,378.95 which might be increased or decreased accordingly as the unsold stock realized more or less than \$2,967.60.

The audit also shows a loss on sale of Venir stock by the Association to the Investment Company of \$6,333.33. Mr. Degge says this was a bookkeeping mistake and has since been corrected, that amount being charged against the Investment Company.

Since the audit, and between June 30 and December 30, 1908, the conditions shown above have changed some as shown by statement published by Mr. Degge in the January-February 1909, issue of his promotion organ "Success," as follows:

#### Increase of Stock Sales by Treasuries of Subsidiary Companies—

Development Company .....	\$16,957.50	
Investment Company .....	33,492.00	
		<hr/>
		\$50,449.50

#### Indebtedness — subsidiary Companies to Association Decreased to—

Development Company .....	\$16,233.02	
Investment Company .....	28,670.56	

#### Association profits increased:

Profits on various stock sold from June 30, 1908, to December 30, 1908 .....	\$6,838.12	
Brokerage .....	13,136.33	



Association reduced its Holdings of Stock of Subsidiary Companies to—

50	Development Company .....	\$33,726.22
	Investment Company .....	15,190.00

These statements also show that 146,000 shares of Tri-Metallic Mining Company Stock have been sold by the Association to the Development Company for \$5,000. The cost of this stock to the Association was \$1,666.67 (see audit for Association June 30th and Association statement December 30, 1908, consequently there was a profit on this transaction to the Association of \$3,333.37. They also show that the association has sold to the Development Company for \$9,333.33 one third of the interest the Association acquired in the Venir property. This Venir Stock deal will be explained at length hereafter.

Mr. Degge has managed, controlled and dominated all of these companies, and he stated to the inspectors that he was responsible for everything that had been done by them. Mr. Degge has been President and Treasurer and Director of the Association, the Development, the Investment and the Realty Companies, and has had as their other officers and directors chiefly his bookkeeper, Mr. R. R. Fiske, his attorney, Mr. O. A. Erdman, and other employees. Mr. Degge has not furnished the names of the officers and directors of the other subsidiary concerns, neither has he denied that he controls their affairs quite as much as he controls the affairs of the Association and the Development and Investment and Realty Companies. The business of all of them is transacted from his office in Boulder, Colorado. The stock has been sold mostly in small blocks through the mails to individuals throughout the United States, a great many of them located in the East, and those persons by reason of their comparatively small individual interests and distance from the offices of the company, have had no substantial part in the conduct of the business of the companies in which they were interested. Consequently these corporations ~~and~~ their funds have been easy of manipulation, and the advantage that he has taken of this situation proves, I think, that he intentionally brought it about and has maintained it, as he still does, as part of an elaborate scheme to defraud stockholders in the subsidiary companies.

*Profits of the Association on Sale of Wellington Gardens to Subsidiary Companies.*

At about the time of the organization of the Development Company Mr. Degge purchased for the Association about 2,800 acres of dry lands a short distance out of Boulder, Colorado, together with certain water rights with which he proposed to irrigate those lands. The price which the association agreed to pay therefor was \$110,000. Mr. Degge states that pending the payment of the full purchase price the deeds for the lands were put in escrow. The deed for the so-called Tyler tract of about 2,400 acres was delivered to him according to his statement on November 24, 1908, and on the same day



placed on record. The deed which he exhibited at the hearing was made to himself as an individual. He stated that he had placed on record November 27, 1908, a declaration of trust declaring that he held this land in trust for the Association, the Development and the Investment companies in equal shares. The deed to the so-called

52 Maxwell tract of about 396 acres which he exhibited at the hearing was dated February 13, 1907, and conveyed the land to Mr. Degge as trustee, for the use of the Association, the Development and the Investment Companies in equal shares. This deed was acknowledged February 3, 1908, and was filed for record February 13, 1908. The paper exhibited by Mr. Degge at the hearing as the assignment to him as trustee of the water rights that accompanied the Maxwell purchase was dated February 3, 1908, and recorded on the same day. The price of the Tyler tract he states was \$60,000 and that of the Maxwell tract and its water rights \$30,000. In addition to these two tracts of land Mr. Degge purchased at about the same time certain water rights known as the Park Reservoir, located, the Inspectors say, about 16 miles west of Boulder, for which he states he paid \$20,000. He states he proposes to expend \$40,000 on this reservoir to make it available for watering the Tyler and Maxwell tracts. These several properties for which Mr. Degge has paid or agreed to pay \$110,000 are the properties which he has designated the Wellington Gardens.

Upon the organization of each the Development and the Investment companies he caused to be sold to each of them an undivided one-third interest in this property. The Development Company he charged for its one-third interest \$50,000, and the Investment Company for its one-third interest \$75,000. At those dates he had not yet secured title to the properties, the deeds being in escrow until the required payments should be made. Until November, 1908, nothing has been of record to show any interest in the 2,400 acres in  
53 any of the companies, or any declaration of any interest in either the Development of the Investment companies in the deed in escrow. The Maxwell deed was not delivered until February, 1908.

At the time that the Development and Investment companies were thus sold these interest- Mr. Degge was their president and manager and in full control of their affairs, as he was also of the Association. While he was acting as the agent of stockholders of these subsidiary companies, and in which he had and has but little interest as owner of stock he was at the same time acting as the other party to the transaction in his own interest in representing the Association of which he and his family were and are two-thirds owners. Out of that situation the parent company profited from the auxiliary companies under the same management and to the extent of over \$51,000, or in other words it received \$15,000 cash and one-third of a \$110,000 property for nothing.

Mr. Degge does not deny that it was his intention in the acquirement of the Gardens that the several companies should participate in the transaction, and as a matter of fact he advertised that the Development Company was organized for that purpose, and when the land was acquired by the Association it was in no financial condition



to handle the property alone. The Inspectors state that there had been no enhancement of values by reason of work on the property as practically no work was done, and that the only development work done up to as late as June 30, 1908, consisted of the expending of about \$15,180.48 on the Reservoirs, of which one-third was charged

54 to the Development Company. Mr. Degge has made no effort to justify these profits from the subsidiary companies in this transaction, except in connection with the claim that he believes that the Gardens will still realize those companies large profits. He states it is his purpose to raise the reservoirs, lay out lateral ditches, plant trees, make other necessary improvements and dispose of the property in small tracts for fruit raising, truck gardening, etc., and that to the time of the hearing five five-acre tracts at \$500 per acre had been sold and payments were being made thereon, that while he does not expect to realize this uniform price for the entire 2,800 acres he believes the average will run close to and may exceed \$300 an acre, thus making \$840,000 for the whole tract, or \$280,000 each to the Development and Investment companies for their interests.

The question of fraud involved here does not concern the prospective value of this land, but only the profiting of the parent company from the subsidiary companies under the same management. Yet, while the future value of this land is, of course, problematical, the Inspectors state that there is serious question as to whether it is of the value claimed that it does not compare favorably with irrigated land that can be bought in that section for much less than \$500 an acre, that the land lies at the base of the foothills at a considerable elevation above surrounding lands, and that about 300 acres, according to Mr. Degge, runs up into the foothills above water supply; that much of the entire tract is exceedingly rocky, sections of it being entirely covered with loose rock, that evidently upwards of 100 acres of it is occupied by the reservoirs, that there is considerable of

55 it which cannot be watered, such as crests of buttes, ravines, and creek bottoms, and that information acquired by them from a number of postmasters near Boulder indicates that prices for land in that section that is not under water but capable of irrigation range from \$10 to \$75; that the price for farming lands under irrigation ranges from \$40 to \$250 an acre; that the prices of small tracts of truck and gardening lands under irrigation will range from \$100 to \$1,000 an acre, with the average between \$150 and \$500, and that information acquired by them from Mr. W. S. Bellman, cashier of the Boulder National Bank, with which Mr. Degge does business, was to the effect that he was familiar with the Wellington Gardens, that he had talked with the son of Mr. Tyler who sold the tract to Mr. Degge, and that in their opinion if Mr. Degge could average \$100 an acre for the sale of the Wellington Gardens it would be a pretty big value for the entire tract, and that good farming land broken and under water, east of Boulder and near Longmont, could be bought for him from \$100 to \$150 per acre, and that such land was better than the Wellington Gardens. Mr. Degge exhibited at the hearing and read to me several letters from persons who stated that they lived near Boulder, that were to the general effect that



Mr. Degge should be able to realize from these lands the price he claims to believe he will be able to obtain. These letters were to have been left with me as I at the time understood Mr. Degge's attorney, but I am not able to find that they have been left with the various matters Mr. Degge filed with his answer. One fact that is particularly

56 significant in this connection is that although Mr. Degge has now had this property for about two years, he has done substantially nothing on it so far as irrigation or cultivation is concerned. If it be true that water is available, and that the land can be made to bring such prices as he claims, it is difficult to understand this delay. It tends to excite a suspicion that water is not available in sufficient quantities for this large acreage. Without the water it is admitted that the land is of small value. The Inspectors state that while Mr. Degge has extensively advertised these Gardens for sale, he has been unable to sell any of the land to residents of Boulder or of that section, and up to the time of the investigation has been able to dispose of only three five-acre tracts to non-residents, through advertising, at \$500 an acre.

If, however, these lands were of the value that Mr. Degge claims for them, I think it increases, rather than diminishes the fraud involved in his obtaining a one-third interest in this property for his parent company entirely at the expense of the auxiliary companies under the same management. The Association instead of profiting only \$50,000 against the subsidiary companies will profit \$280,000. It must also be noted that the advertising by means of which Mr. Degge has induced the public to buy the stock of the subsidiary companies, and so enabled him to realize these profits for his association, has been filled with protestations that all of the several companies were sharing equally in the enterprise; that he was representing only "the man who puts up the money"; that his was the fairest and most equitable investment organization in the West, and

57 was different from the others, that were run chiefly in the interest of the promoter or management; that there were no promoter's profits, and that lands were not bought at one price and turned in at another but were put in at the exact price paid the original owners, etc., as witness the statements quoted at length on page 49 in connection with the subject of Association Dividends. Mr. Degge has also advertised with reference to those Gardens *the* "these three companies (The Association, the Development and the Investment companies) are purchasing both real estate and mining property jointly and dividing the profits equitably." (Advertisement in "Financial Review" of September 1, 1908.)

Since the investigation and these difficulties have arisen Mr. Degge has offered to stockholders of the Development and Investment companies that the Association would repurchase their respective interests in the gardens at a profit of 10% on the amount that each was charged by the Association therefor. He states that a large number of responses have been received to the inquiries addressed to the stockholders of these companies, and that the response is almost uniformly that those companies should retain their interests. This offer is made in the January-February, 1909 issued of "Success," and the statements made there by Mr. Degge in con-



nection with that offer are significant. He claims such values for the property that anyone giving faith to his statements would scarcely be expected to do otherwise than retain his interest in the property. This offer has been made by Mr. Degge since these troubles arose and undoubtedly to serve his interest in defending his actions in relation to this transaction. It is equally as clear that the offer has been made without any real expectation or intention that it should be accepted. The treasury of the Association December 30, 1908, showed cash on hand of only \$3,404.82 and a surplus of only \$46,443. To rebuy the properties at 50% profit to each of the subsidiary companies would require an expenditure by the Association of \$187,500.

Without attempting to decide the question as to the value of this land or what it may realize for the Development and Investment Companies, because I do not consider it necessary to decide that question in the view I take of the fraud involved in this transaction, it is nevertheless clear from the evidence that there is serious question, and it is doubtful, whether this land is of the value which Mr. Degge claims for it in defending himself of the charge of fraud in the sales to the subsidiary companies. Further, it is at least proven that there has been no such enhancement to the *prompt* time as to justify the prices charged the subsidiary companies.

*Profit of Wellington Association and W. W. Degge on Sale of Personal Holdings of Development Co. Stock.*

While Mr. Degge has advertised continuously that there has been no promotion stock in any of his companies, the Wellington Association was given 500,000 shares (one-sixth of entire capitalization) of the Wellington Development Company for four mining claims of a nominal value, the auditor placing no cost to the Wellington Association for such claims. The Wellington Association in April, 1907, also bought of the Wellington Development Company 350,000 shares of its stock at 10 cents per share. The public price for this stock at that time was 25 cents (See "Success," March and April, 1907). The Wellington Association also bought an unknown quantity of Wellington Development Company stock from individuals at unknown prices, presumably under 10 cents per share. Of the said 850,000 shares, plus the unknown number bought of the public, the Wellington Association had up to June 30th, last, sold all but 535,444 shares at a net profit to the Wellington Association of \$49,746.59 and the 535,444 shares of that stock which it then had on hand had cost the Wellington Association, according to the audit of June 30, 1908, only \$37,050.44 or a trifle over 6 9/10 cents per share, or about \$16,493.96 potential profit to the Wellington Association on a basis of the minimum price of ten cents per share. In addition to those profits the Wellington Association charged the Wellington Development Company a commission on the sale to itself of the said 350,000 shares and 100,000 shares to Mr. Degge personally of 25%, amounting to \$11,250.00 thus making that stock cost the Wellington Association 7½ cents per share instead



of the minimum price of 10 cents. It will be seen that the Wellington Association made off of the Wellington Development Company a profit of \$77,490.55, more or less, on the manipulation of that stock. Of those sales of Wellington Development Company held by the Wellington Association about 2,200 shares were sold at 10 cents per share, eight or ten small lots were sold at 12 cents per share, and the balance of those sales were about one-half at 15 cents and one-half at 25 cents.

60 Mr. Degge was given personally 500 shares of Wellington Development Company stock and early in 1907 he bought of the Wellington Development Company 100,000 shares of that stock at ten cents, and from the public an unknown quantity of that stock at varying prices, presumably at less than 10 cents (in one case he paid 5 cents and he made an offer in another case of 4½ cents). Of the said 100,500 shares of Wellington Development Company stock purchased of the company by him, and given to him, plus the number of shares purchased by him from the public, he had on November 18th, last, sold all but 3,100 shares. His ledger account showed for that date that he had sold and caused to be issued of that stock held by him personally 113,300 shares. It will be seen that the number of shares he bought of the public were 15,900 plus the number of shares subscribed for but not yet delivered on account of being paid for on the installment plan. The ledger account did not show the prices at which that stock was sold, but as near as could be ascertained all of it was sold at 25 cents per share. Of the said 113,300 shares sold by Mr. Degge the Inspectors found on a separate card index record of the sale of 56,850 shares, or 200 more than half, which record showed that 56,600 shares were sold at 25 cents and only 250 shares were sold at 15 cents. Mr. Degge's profit on the sale of the said 56,850 shares, on the basis of the minimum price of 10 cents per share, were \$8,502.50. If the other half of his sales were on the same basis, as they evidently were, his net profits on the sale of his personal holdings of Wellington Development

61 Company stock were \$16,970, plus such further gain as he may have made by obtaining his holdings secured from the public at less than 10 cents. Mr. Degge subscribed for his 100,000 shares in January, 1907, at 10 cents; he sold it between March and August of that year at 25 cents; but did not pay the Development Company until October and December, months after he had received his money from the public. At the hearing Mr. Degge made no denial of the charge that he had made such profits from the manipulation of this stock.

Up to June 30, 1908, the Wellington Development Company had sold of its treasury stock, in addition to the said 500,000 shares which it gave to the Wellington Association, 1,850,620 shares for \$181,644.00, averaging a little over 10 cents per share, being less than 11 cents. All of the sales of Wellington Development Company stock at 25 cents per share were made from Mr. Degge's personal holdings and the holdings of the Wellington Association, the sales being mostly between March 1, 1907, and August 1, 1907,



during which period he did not make any sales of the Wellington Development Company treasury stock.

At the same time that Mr. Degge was filling orders for Development Company stock at 25 cents with the private holdings of himself and the Association instead of the Development Company's treasury stock, his advertisements indicates that he was selling treasury stock for the benefit of the Development Company. There was nothing to show that he and the Association were disposing of private holdings for their large profit and without benefit to the Development Company.

62 It is quite clear that if he had indicated any such thing he would have been unable to realize such sales. That he advertised in such a way as to cause the impression that the Development Company was to receive the benefit of the funds subscribed by the public, is shown for example by his advertisement in the "Mining Investor" of June 17, 1907, where he represents that the Development Company required the funds expected to be realized from such sales to make large payment on the property, and to this end we are offering our present stockholders and those with whom we have been in correspondence the last opportunity of securing a block of Wellington Development stock at 25 cents a share."

Mr. Degge endeavored to excuse this manipulation of the sales of that stock to the personal benefit of himself and the Wellington Association by saying that the treasury stock was over-subscribed and that it was necessary to sustain the price. However, if it was all sold it was not necessary to sustain the price, and as a matter of fact it was not all subscribed, as on June 30, 1907, after most of the sales had been made at 25 cents, there was on hand in the treasury of the Wellington Development Company 469,980 shares unsubscribed. Also of the 350,000 shares of that stock bought by the Wellington Association of the Wellington Development Company, 325,000 shares were bought as late as April 13, 1907, at 10 cents per share when the public was sending in its subscriptions at 25 cents per share, Degge thus selling that stock to the Wellington Association at 40% of the market price, and in addition charging the Development Company a 25% commission on the sale, really getting for the Wellington Association that stock at 7½ cents per share while the public were

63 paying 25 cents per share. Also if it were true, which it was not, that Wellington Development Company stock was over-subscribed, why did Mr. Degge subscribe for the Wellington Association for 325,000 shares on April 13, 1907, and if such stock was really over-subscribed why could not Mr. Degge as President, Treasurer, General Manager and Director of the Wellington Association, have arranged with himself as President, Treasurer, General Manager and Director of the Wellington Development Company to have cancelled such subscription of 325,000 shares on April 13, 1907, especially as neither the Wellington Association nor himself paid the Wellington Development for such purchases until late in the fall of 1907?

In the "Mining Investor" of September 16, 1907, just after Mr. Degge had completed the large sales of Development Company stock for the profit of the Association and himself to the extent of over \$75,000, and in an advertisement offering pre-organization stock in



the Investment Company at 10 cents, he prominently set forth his photograph and beneath it printed in bold type:

"I have positively never taken one cent of commissions on any transaction of this character, neither have I ever made any side deals for myself. I have given my full time to the interests of the Wellington System and the stockholders in this have shared and will continue to share equally with me in proportion to the interest which they hold.

"This seems a remarkable statement to make. But it is true. And the results are satisfactory to me."

Comment is quite unnecessary. For further quotations of protestations of this tenor, which are to be found throughout the advertisements and circulars of this person, see those quoted in connection with the subject of Association Dividends, page 48.

64 That Mr. Degge is from time to time continuing to buy stock of his subsidiary companies at low prices and reselling same to the general public by this advertising at large profit for himself, is indicated by letter produced at hearing, written by him December 2, 1908, to a Denver stock broker, offering to buy Development and Investment stock at 4½ cents a share, which stock he is now offering to the public in his advertisements at 11 and 12 cents (See "Success," November, 1908, at 11 cents; January-February, 1909, "Success," at 12 cents).

The letter reads as follows:

The Wellington Association.  
The Successful Dividend Payer.  
W. W. Degge, President.  
Home Officer, Boulder, Colorado.

DECEMBER 2, 1908.

A. R. Grover, 171 Boston Building, Denver, Colorado.

GENTLEMEN: I have a purchaser for from one to 5,000 shares of Wellington Development or Investment stock at 4½ cents a share. You are hereby authorized to send me any part of 5,000 shares with draft attached to W. W. Degge care of National State Bank, Boulder, Colorado, if delivered within ten days.

Yours truly,

W. W. DEGGE.

Mr. Degge neither denies that he had written or sent this letter nor offered any explanation whatever of it.

65 *Concealment of Loss by Development Company of \$70,000 on Mammoth Mine and "Fake" Dividend of Development Company.*

At about the time of the organization of the Development Company, Mr. Degge with his associates formed the Wellington Leadville Mining and Leasing Company, for the purpose of acquiring and developing a property known as the Mammoth Mine, situated



at Leadville, Colorado. They organized the company with 1,000,000 shares of the par value of \$1 each, and distributed the capitalization 600,000 to the Development Company and the remainder to themselves. So far as known none of this stock has been offered for public subscription. The Development Company, as consideration for its 600,000 shares, was to expend as much as might be necessary of \$50,000 for the development of the property. A bond to purchase for \$89,250, to be paid one-half July 19, 1907, and one-half January 19, 1908, and a lease to work the property for six years, were obtained. None of the payments required by the bond to be made were ever made, so that no title has ever been secured to the property. The lease contained the provision, among others, that "any failure to work said premises with at least four persons under ground for a total number of ten days may be considered a violation of this covenant; this clause is of the very essence of this contract."

The Development Company spent upwards of \$50,000 working the property, when it appearing that further expenditure was still required, Mr. Degge and his associates agreed that they should donate of their holdings 190,000 shares of the Leadville Mining and Leasing Company to the Development Company for it to continue with the development work. Under such agreement the work was continued and the Development Company spent altogether on the property some \$71,615.11 (as shown by its records examined by the Inspectors up to about November, 1907, when the property was abandoned. As result of such expenditure by the Development Company about 2,700 of ore was extracted. Such abandonment of the property forfeiture the lease. Mr. Degge so admits in his answer to the Inspectors, and his associates and the lessors similarly advised the Inspectors.

While this lease was the only asset of the Leadville Mining and Leasing Company, and its forfeiture thus rendered that stock worthless, Mr. Degge has nevertheless continued since then to claim the stock of this mining company held by the Development Company to be of large value and has earnestly endeavored to keep from the stockholders of the Development Company the facts in regard to the loss; and to deceive them he has carried on the books of the Development Company the Leadville Mining and Leasing Company stock as a substantial asset of the Development Company. In the audit of June 30, is shown a holding of 500,000 shares of this stock at the valuation of \$75,000 and a "book profit" on same of \$16,884.89. With regard to the value of the shares of these various companies the audit company was careful to say that "we have placed no valuation upon the assets of the books as shown by Mr. Degge's entries." At the time of the investigation in November, 1908,

the Inspector called Mr. Degge's attention to the fact that the Development Company had acquired an additional 190,000 shares of the Wellington Leadville Mining and Leasing Company stock which was not accounted for in the audit, and in his subsequent statement dated December 31, 1908, Mr. Degge carried 690,000 shares of this stock at the same price at which the 500,000



shares were carried in the audit of June 30, namely, \$75,000. In his magazine "Success" for January, 1909, Mr. Degge publicly advertises that "we are holding the Mammoth up our sleeve until we can get a breathing space in our "expenditures," and that work would proceed as soon as \$50,000 could be spared to sink a shaft, and that "it is confidently believed by those competent to judge that when we do this we will open up a million dollar property." Mr. Degge well knew the fraudulent pretenses of such statements, and can have made them for no other purpose than that of attempting to justify his past manipulations and for the purpose of selling more stock in the Development Company to innocent investors.

*Wellington Development Company Dividend.*

Mr. Degge in the early part of 1907 guaranteed in his advertisements and circulars for the sale of Development Company stock, that the Company would pay a dividend in 1907 or that he would buy back from the purchasers of such stock their holdings at the price they had given. With the abandonment of the Mammoth mine in November, 1907, the stock of the Wellington Leadville Mining and Leasing Company became practically worthless as shown before, and instead of bringing into the Development Company (which Company held the stock) a revenue from which to pay a dividend,  
68 it had lost to the Development Company over \$70,000. As the Development Company had during that time made no earnings except a few hundred dollars received for interest, lot sales, rents, etc. and had incurred expenses greatly in excess of its receipts, it was evident that instead of being able to pay a dividend it was really insolvent, but as Mr. Degge was obliged by his guarantee to pay a dividend or to buy back the stock at the purchase price as stated, he transferred from the Wellington Development Company to the Wellington Association 90,000 shares of such Leadville Mining and Leasing Company stock at 15 cents a share, thus realizing \$13,500 from which sum he paid on December 31, 1907, a dividend of one-half a cent per share on the Development Company's Stock, amounting to \$11,123.85. He admits this dividend was paid from the sale of stock. Mr. Degge stated to the Inspectors that the 90,000 shares of the Wellington Leadville Mining and Leasing Company stock was transferred from the Development Company to the Wellington Association on September 29, 1907, and the certificates of stock are dated to the same effect. However, the journal and ledger entries of the Wellington Association show that this transfer took place on November 30, 1907, and both Mr. Degge and Mr. Fiske, his bookkeeper, informed the Inspectors that those books were written up daily. It is thus shown that Mr. Degge well knew the illegitimacy of this transaction and attempted to cover up evidence of the same by ante-dating the stock certificates to a time when work was being done on the property.

Mr. Degge in his subsequent advertisements has repeatedly referred to this dividend of the Wellington Development Company as



69 a remarkable record and has continually used it as a reason why investors should buy stock in the Development Company. Examples of such representations are found in the February, 1908 "Success" where was published the following:

"A Dividend Payer for 25 Cents."

"Wellington Development is the Company that broke all records in paying a dividend in the same year it was organized."

and in the June 1908, "Success" where was published the following:

"The most remarkable achievement accomplished by the Wellington System is perhaps the splendid record made by Wellington Development Company. Within the first year of its organization it paid a dividend of five per cent on the organization price.)"

The fraudulency and deception of such representations is patent from the facts above stated.

Mr. Degge's actions in continuing to carry the Leadville Mining and Leasing Stock as a substantial asset of the Development Company, his failure to make known to the stockholders the true facts in the matter, his payment of the fictitious dividend to escape his responsibility to rebuy the stock, and the holding forth of the payment of that dividend as a remarkable achievement, are all plainly studied efforts to conceal the fact of the loss of over \$70,000 on the Mammoth Mine, and to so deceive purchasers of that stock and to give color to the general representations that permeate his advertisements concerning the business capacity and ability of the management to produce splendid profits for stockholders.

70 *Claims of Ownership of 2,000 Acres Patented Land at Leadville, Colo., and Venir Group.*

While attempting to develop the Mammoth Mine, Mr. Degge bargained with Mr. Tingley S. Wood, of Leadville, Colorado, to purchase the latter's patented holdings of 2,000 acres in the Leadville district, including Mr. Wood's and the Peters Estate's interests in the Mammoth Mine. The information acquired by the Inspectors from Mr. Wood is to the effect that Mr. Degge was to pay approximately \$293,000 in instalments of \$10,000 per month, or forfeit previous payments on default; that he paid \$10,000 under that agreement on June 10, 1907, and \$10,000 on August 10, 1907, and failed to make further payments; and that by the terms of the agreement Mr. Degge thus lost all equity in the lands. From the inception of this proposition Mr. Degge widely advertised the "Leadville holdings" of the Wellington System, consisting of 2,000 acres "acquired by the Wellington Companies";

"Wellington System's new purchase in Leadville";

"A Million Dollar Enterprise";

"The tremendous holdings possessed by this company";

"In one deal acquired almost 300 patented mining properties";



"The value of these assets cannot be questioned";

"2,000 Patented Acres. Newly acquired holdings of the Wellington System";

"Think of the acquisition by one corporation of 2,000 acres of mineral territory in the heart of one of the world's most famous mining districts";

"The fact that these properties are patented enables the Wellington System to hold these individual claims as long as they wish without doing any work";

"A Very Remarkable Prophecy."

It is no exaggeration to say that the properties of the Wellington System at Leadville, admirably situated as they are, should be able in time to produce a tonnage equal to one-half of the present  
71 output of the entire Leadville district, notwithstanding the fact that that camp now produces one-half the tonnage of the great State of Colorado."

These are extracts from advertisements inserted by Mr. Degge in the "Mining Investor," Denver, Colorado, on the following dates: May 17, 1907, June 17, 1907, July 8, 1907, September 2, 1907, September 16, 1907, and October 7, 1907.

A reading of these advertisements plainly shows a studied purpose to make it appear that the Wellington Companies owned these 2,000 acres of patented ground splendidly located in the Leadville mining district, when as a matter of fact their equity was very meager and subject to forfeiture at any time, and was in fact forfeited three months after the first payment was made. Mr. Wood stated that Mr. Degge appealed to him for some piece of ground for the \$20,000; that he informed Mr. Degge that he considered that sum as liquidated damages for Mr. Degge's failure to keep his bargain, and refused to convey any property for that consideration; that Mr. Degge then proposed to purchase Mr. Wood's four-fifths interest in the Venir group of patented claims, about 63 acres of undeveloped ground belonging to Mr. Wood and included in the 2,000 acre proposition, and pay \$8,000 additional, and that the conveyance was made on payment of this sum.

Mr. James A. Shinn, who acted as Mr. Degge's agent in getting Mr. Wood to sell the Venir group to Mr. Degge for \$8,000, in a statement to the inspectors corroborated Mr. Wood's statement that \$8,000 was paid for the Venir group and that Mr. Wood refused to consider the \$20,000 as part of the purchase price on that group.

72 In contrast with these facts relating to the acquisition of the four-fifths interest in the Venir group, Mr. Degge states, in January-February, 1909 "Success," where he offers Development and Investment Company stock at 12 cents a share, that:



### Our Leadville Deal.

We Have a Valuable Property at Leadville Worth All We Have Spent There. We Have Proved Up a Valuable Ore Body from Which We Hope to Make a Million Dollars.

W. W. Degge purchased for the Wellington System about two thousand acres of mineral property, in the Leadville district and made various payments on the same amounting to \$28,000 and if he had believed it to be for the best interests of the Wellington System he would have continued those payments and taken up all of that ground, but under the sensible and businesslike contract which he had made he had this big acreage, with the heavy expenditures connected therewith, divided into eight sections and provided a condition wherein whenever he had paid for one of those sections he could take a deed for that section, thereby relieving him of forfeiture on account of not carrying out the entire deal.

When the time came for exercising his rights under the contract, Mr. Degge believed it to be for the interests of the Wellington System to select what he believed to be the best of these groups and let the others go in order to take care of the infinitely safer and more conservative profit making properties, the 2,800 acres of land around Boulder, and after careful consideration and consultation with the directors of the Wellington System companies he took action and stands responsible for having done so and he has no hesitation whatever in asserting that he is satisfied that every intelligent stockholder in the Wellington System will indorse his action in so doing as time has demonstrated that it is one of the best moves he ever made in his life and he has no apologies to offer to his critics or anyone else for having done what at the time he believed to be right and what time has demonstrated beyond the question of a doubt was right.

Today the Wellington System owns the Venir group of mining claims which Col. James A. Shinn, a mining engineer of many years of experience in the Leadville district, says in his judgment is worth \$150,000."

73 Mr. Degge's attorney attempted to show during the hearing that such an agreement or option existed between Mr. Degge and Mr. Wood and upon being asked to produce it stated that he did not have it with him and that "I would not bother myself about sending for the original option and proving that we had an option to get a business property that we actually did get and paid for and got the property." The Government denied the existence of such an option and although Mr. Degge was given two weeks to submit the same, with any other paper he might desire, it has not been produced.

The Inspectors state that both Mr. Wood and Mr. Shinn advised them that the Venir group of claims was undeveloped and of unproven value and that only the work necessary to secure a patent has been done on the property. Mr. Degge at the hearing submitted no evidence to substantiate this published representation that a valuable ore body has been opened up on the claims.



It will thus be seen that the 2,000 acres of patented mining property, "acquired by direct purchase" and "owned outright" by the Wellington System, within a few months dwindled to a four-fifths interest in 63 acres of wholly undeveloped claims or prospects. Nevertheless, during that few months, Mr. Degge spread broadcast by the use of the mails glowing representations of this "Splendid purchase," and it was largely through such representations that heavy sales of Development and Investment stock to the public were accomplished.

Mr. Degge has since sold a one-third interest in the Venir group to each the Development Company and the Investment Company and charged each company therefor \$9,333.33.

74      *Profits of Association from Sale of Miscellaneous Mining Claims to Subsidiary Companies.*

The only assets of the Goldfield, Manhattan and Midway Companies are mining claims acquired at their organization through the Association. Those claims have all failed to produce any revenue and are now closed down, as is admitted. The Association obtained large blocks of stock of the subsidiary companies on account of these properties, from the re-sale of which to the public it has realized large profits.

Mr. Degge organized the Goldfield Company and sold to it from the Association five undeveloped mining claims in Nevada which had been secured at a nominal expense. The Association received therefor 700,000 shares of the 1,500,000 shares which the Goldfield Company was authorized by its charter to issue; and the Association in addition received 120,000 shares as promotion stock without cost, and later bought 100,000 shares for \$2,700.00. Of these 920,000 shares so acquired for practically \$2,700.00, the Association has realized a profit of \$5,372.95 (see page 8).

At the organization of the Manhattan Company Mr. Degge secured for that company three undeveloped mining claims for which the Manhattan Company (capital of 1,000,000 shares at \$1 each) paid 300,000 shares to the owners of the claims, 100,000 shares to the agent of the owners for negotiating the transfer, and 300,000 to the Association. To June 30, 1908, the Association had realized from selling to the public from its holdings of this stock a  
75      "profit" of \$6,496.40 and still had on hand unsold \$1,473.90 as one of its "assets." A profit of \$3,000.00 is shown in the audit of June 30, 1908, explained as "On promotion of Manhattan Chief Company," which is not definitely understood but is believed to be from the Association's sale of Manhattan stock for its private account.

Mr. Degge organized and promoted the Midway Company on the same basis as the Manhattan, 300,000 shares being given to the owners of six undeveloped mining claims in Nevada, 100,000 to their agent, and 300,000 to the Association, from sales of which the Association listed as a profit on June 30, 1908, \$505.00.

In addition to the profits which the Association has made by so ac-



quiring and reselling the stock of these subsidiary companies under the same management, it has further realized a net profit of 25% of the amount paid by the public for treasury stock in each of these companies, the expense of said sales being charged up against said companies (see p. 56). The profits made by the Association from selling its stock of these companies and from its 25% commission compare with the amounts spent on development as follows:

76

Spent on develop- ment work.	Commission.	Stock sales.	Total profit of asso- ciation.
	Goldfield.		
\$11,799.26	\$4,748.22	\$5,372.95	\$10,121.17
	Manhattan.		
3,968.84	\$2,846.56	\$9,496.40	12,342.96
	Midway.		
1,251.25	\$395.62	\$505.00	900.62
<u>\$17,019.35</u>	.....	.....	<u>\$23,364.75</u>

The preponderance of the profits of the Association from the promotion of these companies over the amounts actually spent on development work, clearly proves, I think, that the realization of that profit was the chief incentive for their creation and exploitation.

At the organization of the Development Company Mr. Degge transferred to it from the Association four undeveloped mining claims in Nevada for 500,000 shares or one-sixth of that company's entire capitalization. The audit company could find no appreciable item of expense connected with the acquisition of these properties by the Association, and, treating the exchange made on the basis of the shares being of the value of \$1 each, allowed a profit to the Association of \$4,995.55, or \$5,000 less five directorship shares. As a matter of fact the Association has realized 15 and 25 cents on

77 each of these shares which it has sold, and its real profit on this stock is best shown by the fact that it has received \$49,746.59 from the sale to the public of this, with that of other holdings in this Company (see page 20).

At the organization of the Investment Company Mr. Degge transferred to it from the Association five undeveloped mining claims in Nevada for \$10,000. The audit company likewise failed to find any appreciable item of expense connected with Association's acquisition of these properties, and consequently stated the entire \$10,000 as profit.



At all of these times the parent and auxiliary companies were under the same management.

None of these facts have been in any wise disputed by Mr. Degge.

That Mr. Degge by his advertisements publicly disclaimed repeatedly that any of his promotions were being in any such wise manipulated for the benefit of the management or any inside company, see the quotations in connection with the subject of the Association's dividends, page 48.

*Profits to the Association from Sale of Stock in Goldfield Tri-Metallic Mining Company.*

Mr. Degge secured for the Wellington Association 438,000 shares of Goldfield Tri-Metallic Mining Company stock at a cost of \$5,000 (see audit of June 30, 1908, and statement of December 30, 1908). So far as is known the only assets of this Company were and are mining claims of unproven value of Nevada. At the time  
78 of the Inspectors' investigation in November, 1908, Mr. Degge had disposed of a one-third interest in this stock to the Investment Company for \$10,000. At that time he claimed that the Development Company also owned one-third of this stock, but could produce nothing to the Inspectors to evidence such ownership. Since then, however, and in the statement published by him of December 30, 1908, it is shown that he has sold one-third interest to the Development Company for \$5,000.

Mr. Degge sought to justify to the Inspectors the profit of over \$8,000 thus obtained from the Investment Company by claiming that the value of the stock had been enhanced by considerable development work. His books, however, failed to show that since the acquisition of the stock by the Association any development work had been done except the expenditure of \$880.98. Mr. Degge admitted that no revenue had ever been produced by this property excepting a few hundred dollars of ore for samples. It is admitted that the property is now closed down and the records at Goldfield, Nevada, show that in December, 1907, workmen filed liens against the property aggregating the sum of \$1,223.50. At the hearing Mr. Degge's attorney claimed that these liens had been satisfied although they had not been removed of record to save that expense to the Company. Despite Mr. Degge's Admissions with respect to the failure of this property to produce revenue, that it is now closed down, and that liens were filed against it in December, 1907, he has advertised immense values on this property and that it was sacking \$225 ore (see "Success," May, 1908).

It will thus be seen that Mr. Degge manipulated this stock  
79 in such fashion that his inside corporation recouped its expenditure of \$5,000 paid for this stock and obtained a profit of \$10,000 from the subsidiary companies under the same management for two-thirds of the stock, and still has one-third of the stock on hand. None of these facts have been disputed by Mr. Degge.



*Association Dividends.*

An inducement prominently advertised and circularized through the mails by Mr. Degge to sell stock in his several subsidiary companies relates to the payment of dividends by the Association. He has persistently advertised that the Association was paying large dividends to induce the purchase of shares in his other promotions where big or greater dividends were promised in the future. These statements are repeated again in the issue of "Success" (the promotion organ sent out in large numbers by Mr. Degge) of November, 1908, in practically the same terms as heretofore, as follows:

As the Wellington Association has made and paid 72 per cent in dividends for its fortunate stockholders in the past four and a half years, paying in that time in actual cash dividends the enormous sum of \$58,205, so we believe, by reason of our greater experience and greater capital, we will accomplish greater results and make for every stockholder in the Wellington System bigger dividends in the future.

Another recent example is found in "The Financial Review for November, 1908, published at Saint Louis, Missouri. The advertisement is entitled "The New Way," occupies an entire page, 80 and is devoted to soliciting the public to purchase of stock of the Investment Company at 11 cents a share. The following are some extracts:

11c. vs. \$1.00.

The Wellington Investment Company is being organized along the lines of the Wellington Association. Wellington Association stock is selling for \$1 a share.

The Association has paid 72 per cent in dividends in fifty-three months.

*Another Dividend.*

That's the announcement that pleases your clients and makes them your friends.

That's the announcement that The Wellington Association has made consecutively every quarter since 1904, together with extra dividends at the end of the year.

The Wellington Association will pay regularly quarterly dividends for 1909 as heretofore.

*Another Dividend Payer Organizing.*

The Wellington Investment Company, we believe, will be the best and most profitable investment on the market.

We have the benefit of our experience in our successful dividend payer, The Wellington Association. \* \* \*

If The Wellington Investment Company fails to pay a dividend in 1909 we will purchase your stock back at the price you paid for it.  
\* \* \*

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*The Big Success of 1908—The Wellington Investment Company—  
Interesting and Profitable Reading for Conservative Investors.*

It will well repay the readers of The Financial Review to read carefully these interesting letters and the general information contained on this page. It gives a lot of valuable information about that great "Successful Dividend Payer," The Wellington Association, and its most successful floatation, The Wellington Investment Company.

The Wellington Association paid its first dividend January 1st, 1904. During the four years since that time it has never once failed to pay a regular quarterly dividend, with an extra dividend at the end of the year, making a grand total of 72 per cent paid in four years.

The Wellington Association has long since passed the experimental stage. It is a safe, conservative dividend payer with no desire to sell any more of its stock, having sufficient money to handle its splendid business. As it is selling no stock, it is absolutely free from that ever-ready criticism or paying dividends out of receipts from the sale of stock.

*The Coming Dividend Payer.*

Having successfully launched the Wellington Association and brought it to that point where it is universally known as "The Successful Dividend Payer," we are now making the most successful floatation of the Wellington Investment Company ever accomplished in Colorado.

In sixty days we sold a million shares of stock and have more than one hundred thousand dollars coming in for development purposes. Having splendid properties to develop, this means that success is assured for The Wellington Investment Company.

*Get in With the Winners.*

Today presents to you the opportunity to get in with the winners. Today you can get Wellington Investment stock for 11 cents a share.

Later it will cost you 50 cents or \$1.00.

\* \* \* \* \*

We hope to make the business of The Wellington Investment Company so plain that the most thoughtless investor can understand and appreciate the fact that this company is doing to do mining on a legitimate and money-making basis.

The stockholders and clients of The Wellington Association have for four years seen the splendid work accomplished by The Association and are therefore best educated to quickly take advantage of this splendid opportunity to begin at the beginning and get in with the organizers at the very low price of 11 cents a share on a



stock which carries with it such evidences of safety as enables it to either assure dividends for 1909 or else refund your money.

You have seen what The Wellington Association has done and is doing, what it assures its stockholders it will do for 1909. We have every reason to believe The Wellington Investment Company will do as well or better.

\* \* \* \* \*

### *A Truly Co-operative Company.*

Thus The Wellington Investment Company will be a truly co-operative company, giving the Eastern investor who puts up his money, an even show with the man on the ground, thus practically assuring success for all.

While The Wellington Investment Company will develop extra good prospects, or spend the necessary money to prove up such prospects, its principal business will be the handling of good properties with ore already in sight.

Like The Wellington Association, The Wellington Investment Company will be run in the interest of its stockholders, they being the promoters, and every share of stock being placed in the treasury.

\* \* \* \* \*

### *Its Special Attractiveness.*

The Special attractive features of The Wellington Investment Company may be summed up as follows:

1. It will be engineered and pushed to success by the same management that has made "The Successful Dividend Payer" of the Wellington Association.

\* \* \* \* \*

### *Get in With the Winners.*

Begin with the beginners.

Remember: The Wellington Association is backing this stock. The Association has never failed to pay regular quarterly dividends since January, 1904, in which time it has paid 72 per cent. It will pay regular quarterly dividends in 1909. This stock is selling at \$1 a share.

\* \* \* \* \*

Why throw your money away on wild cats when you can get in a safe, profitable Investment Company at the bottom price of 11 cents a share.

The Wellington Association has paid regular quarterly dividends since January 7, 1904, a total of 72 per cent, amounting in actual cash distributed to its fortunate stockholders of \$58,205.55.

I refrain for the sake of brevity from quoting more at length representations of this kind. They appear throughout the advertisements and circulars, from the commencement of the sale of these



Continental Audit Company to have seen  
tion, and with which these dividends have been paid, have been se-  
cured only by Mr. Degge's manipulations of the subsidiary com-  
panies. The audit furnished the following particulars:

Total profits from all sources to June 30, 1908.....	\$227,348.25
Profits diverted by Association from public's payments to treasuries of subsidiary companies (per table on page 6) .....	\$130,321.00
Profits of Association by selling stocks of subsidiary companies for 83 its private account (per table on p. 6) .....	68,328.99
Rents from property, and other small items .....	17,452.54
Dividends on stock of subsidiary com- panies held by Association.....	11,245.72
	<hr/>
	\$227,348.25

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...on, September 1, 1900:

The Wellington System is composed of three active companies, viz: The Wellington Association, The Wellington Development Company and the Wellington Investment Company. These three companies are purchasing both real estate and mining properties jointly and dividing the profits equitably.

The Wellington System may be described in the following short paragraph:

The Wellington System is the fairest and most equitable investment company in the West.

Every share of stock placed in the treasury—properties turned in at the actual price paid original owner.

\* \* \* \* \*

An organization that represents first, last and all the time "the man who puts up the money."

Recognizes no grafting influence but demands a full dollar's value for every dollar paid.



to honestly and earnestly represent the man who intrusts me with his money, is infinitely greater than the desire to make a few dollars for myself. \* \* \* Neither did I receive one share of promotion stock from either of those companies, but bought and paid for all the stock I have in those companies on the same basis as the smaller stockholders in the company. //

Daily Mining Record, January 18, 1908:

The big feature of the entire Wellington System is that no one corporation can detract from another.

Mining Investor, September 16, 1907:

// This is the principle which President Degge has applied to the Wellington System: He has taken his profits only on the same basis as other shareholders. //

// Mining Investor, April 9, 1906:

The Wellington Association has no special deals, no blind pools, no special schemes. The management represents the Association in and out of season. Our every effort is given to upbuilding the Association. //

Daily Mining Record, April 13, 1907:

Mr. Degge's success is consequent to the success of his companies, for there is no rake-off or fat blocks of promotion stock to go into his private safe. Here we have the square deal ideally carried out. //

The facts stated in this memorandum show that these and like statements contained in the advertisements and circulars of this person are absolutely false, and made fraudulently with intent to deceive and defraud those foolish enough to give them faith and act thereon.

86 At the hearing, when these facts were brought out against him, Mr. Degge made no denial of them. He scarcely attempted any explanation or justification, except in connection with his general plea that despite the profits he has secured from the subsidiary companies he believes the properties which he has sold them will still produce a profit.

The precise share of the dividends of the Association that have been received by Mr. Degge and his family is not known, nor has Mr. Degge offered to advise me, neither has he done so. As nearly as it can be figured, it is at least approximately \$20,000.00, as will appear from the following:

The audit of the Continental Audit Company shows that 39,700 shares of preferred stock were issued at the organization, and that up to June 30, 1908, 115,720 shares of preferred stock had been issued at par, \$1, making a total of 155,420 shares then outstanding. On November 18, 1908, Mr. Degge advised the Inspectors that there were then outstanding 156,020 shares of preferred stock. He further stated that the preference of the preferred stock was that it was entitled to 12 per cent dividends before the common stock received anything for five years from the organization of the company, or through the year 1909, after which time the common and preferred



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stock would share equally in any dividends that might be paid. While dividends of more than 12 per cent per year have been paid, Mr. Degge stated at the hearing that none of the common stock, all of which that has been issued is held by his wife, has participated in dividends. The dividends distributed up to June 30, 1908, amounted to \$58,205.55, and if either 155,420 or 156,020 shares participated the dividend would be only a little in excess of 37 per cent against the 72 per cent persistently advertised to induce the purchase of shares in other promotions. Mr. Degge, however, claimed to the Inspectors that preferred stock was sold to the public on the installment plan and did not participate in dividends until fully paid for. The Inspectors requested Mr. Degge to furnish them with a statement showing the number of shares that participated in each dividend, but he declined to do so on the ground that his records were in such condition that to do so would require expenditure of considerable time. If it be assumed that the aggregate dividends paid by the Association up to the Fall of 1908 have been 72 per cent on the preferred stock of the Association that participated as advertised, then the dividend received by Mr. Degge and his family on their 31,250 shares of preferred stock has been greater than would appear from the statement that the outstanding preferred stock is either 155,420 or 156,020 shares, but he has instead received at least \$18,000 on the 25,000 shares that have been held since the organization, and depending upon the time that he and his family have secured the other preferred stock which now makes their holdings aggregate 31,250 shares, has received upwards of \$22,500.

When it was stated at the hearing that the portion of the dividends received by himself and family aggregated at least these amounts, Mr. Degge neither denied it nor offered to show what he actually has received. His attorney instead merely argued that the fact that Mr. Degge did not take it all himself, but instead divided it with the others to whom he had sold Association stock, showed absence of intent to defraud. The answer, I think, is plain, that Mr. Degge's plan to enrich himself through the Association from the subsidiary companies either came to him after he had organized and sold some stock in the Association, or else he feared to transfer the profits direct to himself as an individual and sought to make the diversion to himself indirect and only partly to his benefit, so as to render his purpose difficult of proof and he perhaps apprehended more easy to defend.

In addition to his dividends on stockholdings, Mr. Degge each month pays to himself from the Association a salary of \$250.00.

Since the audit of June 30, 1908, which showed dividends paid amounting to \$58,205.55, the statements published by Mr. Degge in his January-February, 1909, issue of "Success" show that the Association paid a dividend of \$6295.30 the last half of 1908, and declared on December 31, 1908, a dividend of \$7,820.00 "paid January 10, 1909." These dividends are announced with great flourish of trumpets calculated to inspire further investments in stock of the subsidiary companies. The dividend of December 31, however, was



“paid January 10, 1909” (although the announcement in “Success” does not so state) in “scrip,” payable December 31, 1909, “or  
89      receivable as cash at any time as payment on account of stock  
or lands purchased from the Wellington System at the Advertised Price.”

*Cost of Financing Not in Excess of 25%, and 75% Invested for  
Benefit of Purchasers of Stock.*

Another inducement advertised prominently concerns the claim that Mr. Degge finances companies promoted by him at a cost of 25 per cent, and that the other 75 per cent is judiciously invested for the benefit of stockholders, three-fourths in real estate propositions and one-fourth in mining enterprises. He has always made a considerable feature of this, advertising it as a great superiority of his system over others and perpetually holding it out as an inducement to the public to invest in his promotions. Examples of these representations are found in the following extracts:

Success, November, 1908:

By reason of the great confidence which the investing public generally has shown in the Wellington System, we have been enabled to finance these companies at a total cost of 25 per cent, said 25 per cent covering every possible expense, including salaries of clerical help, advertising, printing, office rent, postage, and every possible expense.

Financial Review, September 1, 1908:

Instead of charging from 40 to 75 per cent for financing companies, the Wellington System, by reason of its capable management, its fairness and equity to its stockholders, is enabled to finance its companies at the remarkably low cost of 25 per cent.

The Wellington System provides for the investment of 75 per cent of all the money received for stock in safe real estate investments and irrigation enterprises. \* \* \* The remaining 25 per cent is used intelligently in securing and developing the very best mining properties.

In regard to the cost of financing the promotions made by Mr. W. W. Degge, the audit of the Continental Audit Company furnished the following particulars:



90

*Wellington Association.*

Money raised.

Expense of raising.

\$115,720.00	{	Expense.....	\$26,722.77
		Salaries.....	17,284.95
		Advertising .....	59,520.06
		Commission.....	8,945.98
		Rent.....	15.50
			<hr/>
			\$112,489.26

Percentage of Cost, 97 %.

*Wellington Investment Co.*

Money raised.

Expense of raising.

\$78,058.00	{	Expense and in-	
		corporation .....	\$110.00
		Commissions, 25 %	
		to Association...	15,611.60
			<hr/>
			\$15,721.60

Percentage of Cost, 20 %.

*Wellington Development Co.*

Money raised.

Expense of raising.

\$181,644.00	{	Expense.....	\$1,097.70
		Commissions, 25 %	
		to Association...	45,411.00
			<hr/>
			\$46,508.70

Percentage of Cost, 25 %.

Money raised by the three companies of the "System," \$375,422.00, at aggregate cost of \$174,719.56, or from 46 % to 47 %.

It will be noted that no advertising expense is charged against the Wellington Investment Company or the Wellington Development Company, although this item is found charged against every other company. Both the Investment and the Development companies were heavily advertised and circularized. This cost, therefore, must be comprehended in the item included under "Advertising, \$59,520.06" charged against the Association. Consequently the average cost of financing the several companies of the system is from 46 to 47 per cent, as against the advertised statement of Mr. Degge that it is not over 25 per cent.



91 The other companies included in the audit have been financed at a cost of from 63 to 139 per cent, as follows:

Amount raised.	Expenses of advertising by which stock was sold, all borne by subsidiary company.	25% com- mission to Association for selling stock, clear of expenses.	Total cost of raising.
	<i>Goldfield Mining Company.</i>		
\$18,992.90	Expense ... .. \$5,174.71 Advertising..... 5,556.67 <hr/> \$10,731.38	\$4,748.22	\$15,479.60  81 %
	<i>Manhattan Chief G. M. Company.</i>		
\$11,386.25	Expense..... \$1,320.58 Advertising ..... 3,014.80 <hr/> \$4,335.38	\$2,846.56	\$7,181.94  63 %
	<i>Midway Mines and Town Company.</i>		
\$1,582.50	Expense..... \$1,020.42 Advertising..... 776.40 <hr/> \$1,796.82	\$395.62	\$2,192.44  137 %
	<i>Realty Company.</i>		
\$2,750.00	Expense..... \$2,640.54 Advertising..... 490.27 <hr/> \$3,130.81	\$687.50	\$3,818.31  139 %
<hr/> \$34,711.65	<hr/> \$19,994.39	<hr/> \$8,677.90	<hr/> \$28,672.29

From this it will be seen that it cost the subsidiary companies \$28,672.29 to raise \$34,711.65 for their treasuries, or a percentage of about 82%.

92 Mr. Degge's attorney stated for him at the hearing that when Mr. Degge advertised that the cost of financing the Wellington promotions was not in excess of 25% he did not have in mind these earlier promotions but intended the statement to — the cases of the Development and Investment companies. No such qualification, however, is to be found in the published statements.

In the cases of the Development and Investment companies the Association's commission included the expenses of selling the stock,



but in all other instances the Association has charged all the expenses of the sale up to the subsidiary company and in addition taken 25% of the total amount raised as its net profit, despite the fact that both the parent and the subsidiary companies were under the same management, and despite the protestations that there were no promoters' special deals or schemes and that the investor shared in every profit open to the management, etc. All these earlier companies were projected on undeveloped mining claims sold by the Association at a profit to the auxiliary company, and all of these properties have so far failed to develop any paying ore and are now closed down, as admitted by Mr. Degge's attorney at the hearing. Consequently these concerns have never been a source of profit to any one except to the Association, which exhausted the great share of the money raised for its expenses and commissions and left but an insignificant amount with which to develop the properties, which facts prove, I think, that the companies were created and manipulated chiefly for the profits the Association could derive from their promotion.

93 That 75 per cent of the public's investment in the subsidiary company has not all been invested for its benefit in lands and mines as claimed, is apparent from the facts heretofore stated. The audit shows that of the \$246,713.65 paid by the public to the treasuries of the subsidiary companies, \$130,321.00 has been diverted to the Association as "profits," and that of some \$120,778.99 received by the Association and Mr. Degge from the public for stock bought by them of the subsidiary companies and resold to the public for their private benefit and profit, they paid to the subsidiary companies but \$36,450.00 (\$47,700.00 less the 25% commission charged the Development Company as previously shown) and retained all of the remainder for their private profit.

### *Mining Investments Successful.*

To inspire confidence in his capacity to earn large profits and thus induce the public to invest in his various promotions, Mr. Degge advertises that his mining ventures have been splendid successes,—for example, the following extracts:

Financial Review, September 1, 1908:

Some years ago this enterprise was conceived by Mr. Degge. It was the original intention to enlist the money of the stockholders in mining properties. Not the theoretical and visionary claims of the over-enthusiastic prospector, who always sees in his own little hole in the ground the Eldorado of the world, but in claims and mines in actual operation and which had actually proven their value, and which only needed a little money to become dividend payers.

94 Several valuable properties were secured and the dividends, after all, the one great test, began to roll into the pockets of those who had become a part of the great Wellington System. The stockholders were perfectly satisfied with the returns they



were getting, but Mr. Degge was not. He wanted to see it come faster. Mines were all right, but the money came too slow to suit him. He looked around for other fields, and found what he sought in real estate investment.

So Mr. Degge launched into real estate. But he did not quit the mining business. Today his system owns much valuable land in several of the Nevada mining districts.

The Mining Investor, July 8, 1907:

The Wellington System owns outright some of the most substantial mining interests in Nevada and Colorado. These are from time to time yielding splendid profit to the shareholders.

At the hearing the Inspectors stated that so far all of Mr. Degge's mining ventures have been total failures and all are now closed down, and that "Mr. Degge stated to us (the Inspectors) that he had never promoted or been connected with any mining enterprise that has produced sufficient revenue to pay the cost of development; that only two such mines, his recent ventures, had ever produced any ore, one—the Mammoth—producing after an expenditure of \$71,615.11 ore of a gross value of about \$2,700.00, and the other—the Tri-Metallic Co., of Montezuma, Nevada,—producing only a few hundred dollars' worth of samples, and that practically all the money put into mining companies promoted or managed by him had been lost to investors." The Mammoth mine was abandoned the Fall of 1907, and the Tri-Mettal-ic has now closed down, and about a year ago workmen's liens were filed against it, Mr. Degge's attorney, however, stated these liens have been paid off, although not removed of record to save that expense. The only assets of the Goldfield.

Manhattan and Midway companies are the Nevada mining  
95 claims which were sold to each of these companies at the time each was organized under the plan related on page 37. At the time these properties were so acquired by each of these subsidiary companies they were undeveloped claims. They were not "claims and mines in actual operation and which had actually proven their value, and which only needed a little money to become dividend payers," and it is not true that "dividends, after all, the one great test, began to roll into the pockets of those who had become a part of the great Wellington System." So far as shown these properties have never earned anything, nor shown any value, and are now closed down. None of these facts were denied by Mr. Degge at the hearing.

The mining claims sold by the Association to the Development and Investment companies at the time of their organization were likewise undeveloped or prospect properties which so far have produced no revenue whatever. At the hearing Mr. Degge made no endeavor to show value in any of these properties, or that the above statements are not in all respects correct.

The statement in the "Mining Investor" of July 8, 1907, that "the Wellington System owns outright some of the most substantial mining interests in Nevada and Colorado" and that "these are from time to time yielding splendid profit to the shareholders" are abso-



lute untruths. No mining property ever held by any of these various companies has ever produced for them, nor are they doing so now, "splendid" or any other kind of "profits," but all have been non-producers. To say that these properties are  
96 among "the most substantial mining interests in Nevada and Colorado" is without the slightest foundation of fact. Mr. Degge has not attempted to controvert any of these facts. The only profits that have come out of these properties have been the profits taken by the Association on their sale to the subsidiary companies and from selling the stock of the subsidiary companies.

### *Deals Disclosed.*

In his defense at the hearing Mr. Degge claimed that the facts in regard to the profits taken by the Association from the Development and Investment companies in the Gardens transaction, and the fact that the Association has charged the subsidiary companies 25% brokerage fees for selling their stocks, have been published to his investors. He was requested to refer to the specific statements published by him to that effect. In answer to that request he referred to the issues of his promotion magazine, "Success," of February, May, June, August and November, 1908, and February and April, 1906, and July and December, 1905, and to an undated circular entitled "Today." With the exception of statements published in 1908 when disclosure was made of these deals by certain mining papers of Denver between the publishers of which and Mr. Degge bitter controversy had arisen, the true facts in regard to his manipulation of the subsidiary companies to the profit of his inside company have not  
97 been revealed but have been carefully concealed and the contrary repeatedly claimed. Such statements as Mr. Degge has been forced to make by the controversy mentioned have been put forth in such vague and evasive manner as to be calculated to confuse rather than enlighten the average investor in his promotions. Particularly is this illustrated by the fact that he has published the audit of the Continental Audit Company as a complete "vindication," when in fact that audit, intelligently analyzed, reveals his enrichment of his inside company, the Association, at the expense of the subsidiary companies.

### *Mr. Degge's Reputation.*

In answering these charges Mr. Degge has sought to show that he is a man of standing and good reputation. The records of this Department show that in January, 1898, Mr. Degge was removed from the position of Postmaster at Norfolk, Virginia, for embezzlement of \$5,523.24 of the funds of that post office. Of that amount his sureties were obliged to pay \$4,864.98. The defalcation was made good to the Government and Mr. Degge was not prosecuted. He thereupon moved to Colorado and since then, the Inspectors state, has been engaged in such promotions as are here shown.

No effort has been made in the preparation of this memorandum to cover all the business transactions of these various companies, nor



98 to state the probable values of all the properties which Mr. Degge has accumulated in the course of these promotions. To do so would extend this memorandum to unnecessary length. The effort has been to state as briefly as possible, and yet with sufficient fullness to outline clearly the character of the matters touched upon, the chief manipulations and transactions of Mr. Degge in the furtherance of what it is believed has been a fraudulent scheme conceived and operated by him. Consequently this memorandum should not be understood as covering everything that has transpired with relation to these companies.

Any argument on the facts in this case seems uncalled for. Their reading irresistibly forces the conviction, I think, that in the matters here described Mr. Degge has conceived and conducted an elaborate scheme to defraud the stockholders of his subsidiary companies and to enrich himself and his inside company, the Wellington Association, (greatly to his benefit) by securing and maintaining control of the management of the affairs of all of the various companies in his hands, and using that situation for the purpose of carrying through the deals and manipulations calculated to enrich himself and his Association at the expense of the stockholders of the subsidiary companies.

I find that said W. W. Degge, under his own hand and also under the several names of Wellington Association, Wellington Development Company, Wellington Investment Company, and Wellington System, is engaged in operating and conducting a scheme for obtaining money through the mails by means of false and fraudulent pretenses, representations and promises, in violation of Sections 3929 and 4041 of the Revised Statutes of the United States, and I recommend that a "fraud order" be issued against said W. W. Degge, the Wellington Association, the Wellington Development Company, the Wellington Investment Company, and the Wellington System, and their Officers and Agents as such, at Boulder, Colorado.

R. P. GOODWIN,  
*Assistant Attorney General.*



100 Supreme Court of the District of Columbia.

MONDAY, *December 20th*, 1909.

Session resumed pursuant to adjournment, Mr. Justice Wright presiding.

\* \* \* \* \*

At Law. No. 52209.

W. W. DEGGE, THE WELLINGTON ASSOCIATION, a Corporation; THE Wellington Development Company, a Corporation, and The Wellington Investment Company, a Corporation, Petitioners,

vs.

FRANK H. HITCHCOCK, as Postmaster General of the United States, Respondent.

Now come here as well the petitioners by their Attorney Mr. O. A. Erdman, as the respondent by his Attorney Mr. D. W. Baker, U. S. Attorney; whereupon, this cause comes on to be heard upon the petition, rule to show cause, and answer of respondent, and having been argued and submitted, it is by the Court ordered that said rule to show cause be, and it is hereby discharged, the petition dismissed, and that the respondent recover against said petitioners, the costs of his defense, to be taxed by the Clerk, and have execution thereof.

From the foregoing the petitioners by their Attorney in Open Court, note an appeal to the Court of Appeals of the District of Columbia, and, upon motion the penalty of the bond for costs on said appeal is hereby fixed in the sum of one hundred dollars (\$100).

101

*Memorandum.*

December 21, 1909.—Appeal bond approved and filed.

*Directions to Clerk for Preparation of Transcript of Record.*

Filed Dec. 21, 1909.

In the Supreme Court of the District of Columbia, the 21st Day of December, 1909.

At Law. No. 52209.

W. W. DEGGE et al.

vs.

FRANK H. HITCHCOCK, etc.

The Clerk of said Court will prepare transcript for District of Columbia Court of Appeals, including all papers in the case.

O. A. ERDMAN,  
*Attorney for Petitioners.*



102 Supreme Court of the District of Columbia.

UNITED STATES OF AMERICA,  
District of Columbia, ss:

I, John R. Young, Clerk of the Supreme Court of the District of Columbia, hereby certify the foregoing pages numbered from 1 to 104, both inclusive, to be a true and correct transcript of the record according to directions of counsel herein filed, copy of which is made part of this transcript, in cause No. 52209 at Law, wherein W. W. Degge, et als. are Petitioners and Frank H. Hitchcock, Postmaster-General of the United States is Respondent as the same remains upon the files and of record in said Court.

In testimony whereof, I hereunto subscribe my name and affix the seal of said Court, at the City of Washington, in said District this 7th day of February, A. D. 1910.

[Seal Supreme Court of the District of Columbia.]

JOHN R. YOUNG, *Clerk.*

103 In the Court of Appeals of the District of Columbia.

At Law. No. 2115.

W. W. DEGGE et al., Appellants,  
vs.  
FRANK H. HITCHCOCK, as Postmaster General, Appellee.

At Law. No. 2116.

MYTTON MAURY et al., Appellants,  
vs.  
FRANK H. HITCHCOCK, as Postmaster General, Appellee.

*Stipulation.*

It is hereby stipulated and agreed by and between counsel for the appellants and the appellee, respectively, in the above entitled causes, that the said causes may be consolidated for hearing and argument in this Court, and that one set of briefs shall suffice for the two causes.

WALTER B. GUY,  
*Attorney for Appellants.*

DANIEL W. BAKER,  
*U. S. Att'y, D. C.,*

REGINALD S. HUIDEKOPER,  
*Ass't U. S. Att'y, D. C.,*  
*Attorneys for Appellee.*

(Endorsed:) Nos. 2115 & 2116. W. W. Degge et al., Appellants, vs. Frank H. Hitchcock, as Postmaster General, and Mytton Maury et al., Appellants, vs. Frank H. Hitchcock, as Postmaster General. Stipulation to hear together. Court of Appeals, District of Columbia. Filed Mar. 1, 1910. Henry W. Hodges, Clerk.

Endorsed on cover: District of Columbia Supreme Court. No. 2115. W. W. Degge et al., appellants, vs. Frank H. Hitchcock, as Postmaster General of the United States. Court of Appeals, District of Columbia. Filed Feb. 7, 1910. Henry W. Hodges, clerk.